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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS. SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS,
*

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v.	* Docket No. 2282CR00117
	*

KAREN READ. *

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TESTIMONY OF YURIY BUKHENIK
BEFORE THE HONORABLE BEVERLY CANNONE
THURSDAY, MAY 8, 2025

APPEARANCES:

For the Commonwealth:

BY: HANK BRENNAN, A.D.A.
ADAM LALLY, A.D.A.
LAURA LAUGHLIN, A.D.A.

For the defendant:

BY: DAVID YANNETTI, ESQ.
ALAN JACKSON, ESQ.
ELIZABETH LITTLE, ESQ.
ROBERT ALESSI, ESQ.

Also present:

Cindy Gilman

Sophie Johnson

Courtroom 25
Dedham, Massachusetts

Christine D. Blankenship, CVR
Court Reporter/Transcriber

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1 (Court in session at 9:04 a.m.)

2 (Defendant is present with counsel.)

3 (Jury in.)

4 THE COURT: Good morning, Counsel. Good morning, Ms.
5 Read. Good morning, jurors.

6 This is great. This may be the earliest we got
7 started, so I appreciate everybody being here so we can go
8 right away.

9 I do have to ask you those questions. Was everyone
10 able to follow my instructions and refrain from discussing
11 this case with anyone since we left yesterday?

12 Everyone said yes and nodded affirmatively.

13 Were you also able to follow my instructions and
14 refrain from doing any independent research or
15 investigation into this case?

16 Everyone said yes or nodded affirmatively.

17 Did anyone happen to see, hear, or read anything about
18 this case since we left yesterday?

19 Everyone said no or shook their heads.

20 Mr. Brennan, your next witness, please.

21 MR. BRENNAN: Thank you, Your Honor. The Commonwealth
22 calls Yuriy Bukhenik.

23 YURIY BUKHENIK, sworn

24 THE COURT: Good morning.

1 THE WITNESS: Good morning, Your Honor. Good morning,
2 ladies and gentlemen.

3 THE COURT: All right, Mr. Brennan, whenever you're
4 ready.

5 MR. BRENNAN: Thank you, Your Honor.

6 **DIRECT EXAMINATION**

7 **BY MR. BRENNAN:**

8 Q Good morning.

9 A Good morning, sir.

10 Q Could you please introduce yourself to the jury and
11 spell your last name for the record?

12 A My name is Yuriy Bukhenik. My last name is spelled to
13 B-U-K-H-E-N-I-K.

14 Q Mr. Bukhenik, where do you work?

15 A I worked for the Massachusetts State police.

16 Q What is your role with the Massachusetts State Police?

17 A I'm currently assigned as a sergeant with the Norfolk
18 District Attorney's Office in the homicide section.

19 Q I want you take us back to before you became a state
20 police trooper with the Norfolk County District Attorney's
21 Office.

22 Where were you born?

23 A I was born in Lviv, Ukraine.

24 Q Did you immigrate?

25 A Yes.

1 Q How old were you when you immigrated?

2 A I was nine years old when my family moved to the Boston
3 area.

4 Q Did you attend public schools?

5 A Yes.

6 Q Through high school?

7 A Yes.

8 Q Tell us what you did after high school.

9 A After high school, I enlisted in the United States
10 Marine Corps.

11 Q Why did you enlist in the Marine Corps?

12 A It was right after 9/11 and my friends were --

13 MR. JACKSON: Objection.

14 THE COURT: He can finish this answer and then just
15 move along.

16 Go ahead, you can finish.

17 A My friends and I decided to serve in the nation's Armed
18 Forces.

19 Q Did you serve in the Marine Corps?

20 A I did.

21 Q Did you go through training?

22 A I did.

23 Q Did you learn any skills?

24 A My specialty was military police, and I attended the
25 military police school at Fort Leonard Wood, Missouri.

1 Q Through your military service, did you receive top-
2 secret clearances?

3 A Yes, my first duty station was with Marine One
4 Presidential Helicopter Squadron. The duty station
5 requires a top-secret Yankee white SCI clearance. And as a
6 result, I attained that clearance and held it throughout my
7 career.

8 Q Did you engage in any special assignments?

9 A The presidential helicopter squadron is a special
10 assignment. We provide security for the presidential
11 helicopters and presidential assets. With that clearance,
12 we are read into a SEI program which is a need to know
13 basis type situation.

14 Q How long were you in the military for?

15 A Four years.

16 Q When did you -- when were you discharged from the
17 Marines? What year?

18 A 2006.

19 Q Honorably discharged?

20 A Yes.

21 Q After you were honorably discharged from the Marines,
22 what did you do next?

23 A I had a passion for law enforcement, and I wanted to
24 serve my community here in Massachusetts, so I left
25 California and came home applied for various police

1 departments, ultimately, getting a job with the VA Hospital
2 Police here in the Boston region.

3 Q When did you transition from the VA to Massachusetts
4 State Police, what year?

5 A I actually transitioned to the Attleborough Police
6 Department. I worked there as a patrol officer, SWAT team
7 member, then in 2011, I transitioned from Attleboro to
8 Massachusetts State Police.

9 Q When did you join the homicide unit?

10 A It was May of 2015.

11 Q And have you been in that position since?

12 A I have.

13 Q And you're now a sergeant in that?

14 A I am.

15 Q I want to ask you about the structure of the homicide
16 unit for the state police.

17 How many different troopers work in the homicide unit
18 at Norfolk County DA's office?

19 A We have a range from two to six troopers working in the
20 homicide section over the years that I've been there.
21 Currently, we have six homicide detective troopers in the
22 section.

23 Q What type of cases does your unit investigate?

24 A Our unit investigates primarily unattended deaths.
25 Unattended deaths are those that are not attended by a

1 physician. A variety of deaths including natural deaths,
2 old-age, medical conditions, accidental, industrial
3 accidents, obviously, homicides, overdoses. We have
4 suicides as well. And those vary in age on the victims
5 that pass, whether they're stillborn infant deaths,
6 children that pass away of SIDS or, unfortunately, teenage
7 suicides.

8 Q Have you been to a number of scenes, a number of cases?

9 A Yes, I have.

10 Q Do you handle more than one case at a time?

11 A Yes, we do.

12 Q When a case, an attended death is notified to your
13 office, is that routine or is it by statute?

14 A The notification comes in due to the statutory
15 requirement. In Massachusetts, under Mass. General Law,
16 Chapter 38, Section 4, the authority is given to the
17 district attorney in each county to investigate those
18 deaths. They appoint designees and within Norfolk County,
19 those designees are law enforcement agents from the
20 Massachusetts State Police. So in our county, the
21 Massachusetts State Police, with the district attorney's
22 authority, investigate all unattended deaths.

23 Q You mentioned that it's called the homicide unit. Are
24 many of the deaths that you investigate not homicides?

25 A Primarily, the death investigations are not homicides.

1 Q When you walk into a call, do you have a preconceived
2 notion whether it's a homicide or not a homicide?

3 A When we walk into a call, we take in all the evidence.
4 So we do not know exactly what we're going to have as a
5 finding. We follow the evidence. We follow the
6 information that we're provided that we learned throughout
7 the investigation. At times, it's obvious there was a
8 homicide when the local agency that's reporting the death
9 says that there was a shooting, reported, and there's a,
10 you know, a deceased person at the scene. So, yes, we will
11 know that it's most likely a homicide, but we don't make a
12 preconceived notion or a determination before we get there.

13 Q You said there are a number cases that go through your
14 office. Do you work investigations by yourself?

15 A Never, no.

16 Q Are investigations assigned to the group as a whole, or
17 is there a particular trooper in the unit?

18 A We have case officer and the assignment of the
19 responsibility when you will most likely be a case officer
20 is scheduled a month or so in advance. So each trooper has
21 a responsibility of a 24-hour period that they are on call.
22 They respond to the scenes, whether it be a train strike
23 versus pedestrian or a vehicle or a suicide by, you know,
24 hanging, they respond, and then if they need assistance, or
25 they think that there's something more, additional

1 resources are called out like crime scene services, which
2 helps us document scenes, et cetera.

3 Q Have you been assigned a homicide or a homicide
4 investigation?

5 A Yes.

6 Q In the cases where you were assigned, do you
7 investigate the case alone?

8 A Never. It's always a team effort. Every case requires
9 a team effort. Just the amount of work that goes into
10 collecting evidence, interviewing witnesses, interviewing
11 involved parties, interviewing the suspect. All those
12 tasks that are required and collecting surveillance footage
13 require manpower and time and resources, and so every
14 investigation, although it has a case officer, it requires
15 a team effort of individuals to work together in concert to
16 accomplish a successful investigation.

17 Q Are you often working on more than one investigation at
18 the same time?

19 A Yes, we are.

20 Q If you were the case officer, would you have other
21 resources you would use to help with the investigation,
22 other units in the Massachusetts State Police or local
23 police?

24 A Yes. Typically we partner up with the local police
25 detectives, and when we're conducting interviews, it's a

1 state trooper and a local detective that are conducting
2 those interviews or collecting surveillance footage and so
3 forth.

4 And there's a reason behind it. The reason why we pair
5 up is, not just the manpower, it's also we work in the
6 dangerous line of work, and people could lose their life,
7 people could get injured, or, unfortunately, people could
8 get fired or retire and no longer be available to testify,
9 provide their testimony, or be a resource in the future.

10 Q Is it a common practice that when there's
11 investigation, more than one trooper will appear at many
12 events?

13 A It is very common and preferred. Unfortunately, in,
14 you know, in the real world, it's not always possible. A
15 trooper can be responding to a scene and just to simply
16 grab something from another trooper and could be approached
17 and a small, brief interview could happen. If a trooper is
18 at a home talking to a witness and others show up, willing
19 to provide information, he has to conduct that interview by
20 himself because of the resources aren't available for him.

21 Q Let's talk about the assignment of this case. You said
22 that there's case assignments schedule that is made in
23 advance?

24 A Yes, sir.

1 Q On the day or the morning of January 29, 2022, do you
2 know who was assigned to take calls for new cases?

3 A Yes. Before 7:00 a.m. on the 29th, it was Michael
4 Proctor that was assigned to be on call.

5 Q Is there a supervisor assigned as well in addition to a
6 trooper that's not in a superior position?

7 A Yes. Everyday there's a supervisor assigned. In
8 addition to the on-call trooper, there's a supervisor
9 that's also available for any reason any time to respond,
10 assist that trooper if there's any questions or issues that
11 come up.

12 Q Was there a supervisor assigned that morning?

13 A Yes, there was.

14 Q And who was that?

15 A It was myself.

16 Q When did you first hear or learn anything about this
17 call or this case?

18 A In a unique fashion, this call actually came from the
19 troop H headquarters, which is the field services portion
20 of the state police, the uniform patrols that service the
21 Metro Boston area. The headquarters' duty officer contacted
22 me I think by mistake misdialing the number because our
23 names and numbers were listed one above the other. So the
24 call actually came in to me. I took the call and advised
25 them that I would call the on-call trooper for that day,

1 and they would contact Canton PD and take the appropriate
2 steps.

3 Q About what time did you receive a call that morning?

4 A Approximately, 6:44 in the morning.

5 Q After receiving the call around 6:44 that morning, did
6 you contact anybody to assign a case manager, or did you
7 get involved personally?

8 A I called Michael Proctor and told him to reach out to
9 Canton and follow up on the report of a male in a snowbank.

10 Q And this is around 6:44 a.m.?

11 A Yes, sir.

12 Q What did you do next?

13 A I waited for a call back from Michael Proctor, and he
14 reported the details of, yes, there was a male found in a
15 snowbank in Canton, and that they were requesting our
16 assistance, as he had sustained injury and was
17 unresponsive, and had been transported to Good Samaritan
18 Hospital.

19 Q What was the plan at this point?

20 A At this point, where I learned that he had sustained
21 injury, there was a heavy blizzard in the area, I decided
22 myself to get dressed, shovel out, and respond to Canton.

23 Q Were you required to get involved and go to Canton that
24 morning?

1 A At this point in time, I was not, but I thought that it
2 would be prudent on me to at the very least shovel out
3 because another call could have come in, and I would have
4 had to respond to that and the driveway would've been
5 shoveled.

6 Q Were you in touch with Mr. Proctor?

7 A I was.

8 Q Did you have any plan to meet him?

9 A Yes.

10 Q When and where?

11 A We decided to meet at Canton Police Department.

12 Q And about what time were you going to leave your home,
13 when did you leave your home?

14 A I left my home probably around 8:50, and I know we -- I
15 arrived to the Canton Police Department approximately 9:15
16 in the morning.

17 Q Did you know the address where the person was found in
18 the snow?

19 A At that time, I learned the address once we got to the
20 police department, but it had no significance for me. I
21 did not know where it was.

22 Q Why did you plan to go to the Canton Police Department
23 instead of going to the scene first?

24 A The Canton Police Department fire department personnel
25 and paramedics had already cleared the location, so we,

1 again given the conditions, it would be -- we were in a
2 controlled environment. Inside a police station to
3 exchange information, collect any evidence, if it was
4 available, and the police department safety and security of
5 that would've been the best location for it.

6 Q You mentioned that you arrived at the Canton Police
7 Department around 9:15 a.m.?

8 A Yes, sir.

9 Q Was Mr. Proctor there when you arrived?

10 A Mr. Proctor was there walking in with me.

11 Q When you went in with Mr. Proctor that morning, who did
12 you meet?

13 A We went in. We met with multiple Canton police
14 personnel, one of which being Sergeant Goode. He was one
15 of the first responders to the initial scene.

16 Q Did you receive any items from Sergeant Goode or any of
17 the police officers while you were there?

18 A Yes, we received -- we didn't receive it, but we were
19 shown a broken cocktail glass, the bottom of a broken
20 cocktail glass. We were provided Mr. John O'Keefe's cell
21 phone, and I was also shown a brown paper bag with six
22 plastics solo cups in it containing a -- what was reported
23 to be blood in the snow.

24 Q When you were shown these items and had a discussion
25 with the Canton Police Department, were any decisions made

1 about the future of the investigation? You had shared with
2 us earlier that typically the state police pair up with
3 local detectives. Did you do that that morning?

4 A That morning, we did not. We had learned that there
5 was a loose, familiar connection through town channels with
6 the address and possibility of a Canton police officer or a
7 detective. So Canton police, out of overwhelming
8 precaution into impropriety, not that there was one,
9 decided to step away from any interview investigation
10 assistance with us.

11 Q Has that happened in your career before?

12 A Yes, it has, yes.

13 Q Since there would be no local detective, did that
14 change your role at this point in the case, your
15 involvement?

16 A It did not change my involvement, but it did bring up a
17 concern of manpower. We are obviously limited by staff.
18 The weather conditions also further exacerbated that issue,
19 so transportation was an issue. Timing is always an issue.
20 And you can never have enough manpower.

21 Q Did your role becomes more prominent given there was no
22 local detective involved?

23 A I would have to pick up the slack. I'm a team player.
24 I always want to assist in any which way I can to make
25 others' life easier.

1 Q And you were Mr. Proctor's supervisor?

2 A I was.

3 Q After you received the broken glass, the cell phone,
4 and you saw the plastic cups with the blood in them, where
5 did the evidence next lead you?

6 A Based on the information, we had learned, and the
7 evidence, we decided that we needed to speak to the
8 individuals who were last in contact and present at the
9 scene when Mr. O'Keefe was found.

10 Q Did you have any specific other information that you
11 were following at that point?

12 A Yes. We had statements made by the defendant that she
13 was questioning whether she had hit him and to that extent.

14 Q Had you focused in on a target at this point or reach
15 any conclusions about your investigation?

16 A No, we were still in the information and fact-finding
17 portion of the investigation. We are not ruling out people
18 as much as -- we're not ruling people in as much as we're
19 ruling people out. So we need to get as much information
20 as possible that is in physical form, statement form, and
21 circumstantial factors as well.

22 Q Where did the evidence take you next?

23 A Following three interviews conducted in Canton with
24 witnesses, we proceeded to the Good Samaritan Hospital
25 because, based on the information I learned, I needed to

1 put eyes on Mr. O'Keefe and his injuries. I needed to see
2 what exactly the witnesses were describing.

3 Q Do you remember who you spoke with that morning before
4 you decided that you wanted to go to the hospital to see
5 Mr. O'Keefe?

6 A Yes, we interviewed Ms. Jen McCabe, Mr. Matt McCabe,
7 and Mr. Brian Albert at the McCabe residence.

8 Q How long or about what time did you get to see Mr.
9 O'Keefe?

10 A We got to see Mr. O'Keefe I would approximate maybe
11 about 12:30, maybe 1 o'clock-ish, in the afternoon.

12 Q Why did you want to see him, specifically?

13 A I wanted to see the injuries for myself, the location
14 of the injuries, the types of injuries, the extent of the
15 injuries, and overall condition that his body was in would
16 be very telling. The mechanism of injury, how it might
17 have taken place, and also the correlation of any evidence
18 at the scene with those injuries.

19 Q You don't have any medical degrees, do you?

20 A I do not, no.

21 Q How about biomechanical engineering?

22 A No.

23 Q Do you have life and job experience in these
24 situations?

1 A Yes, 20 plus years of law enforcement investigating car
2 crashes, pedestrian crashes, and ten years in homicide.

3 Q Your role is not to make a diagnosis, is it?

4 A No, it's not.

5 Q Is this information and your interpretation, based on
6 your experience, important in guiding what you are going to
7 do in the investigation?

8 A Yes, it is, very.

9 Q Do you ultimately get to Good Samaritan Hospital?

10 A Yes, we do.

11 Q Okay. Take us through what happens when we got there.

12 A When we got to Good Samaritan Hospital, the driving
13 conditions were treacherous. It took us 45 minutes from
14 Canton Center, basically, to Good Sam, which should be a
15 15, 20 minute drive. At one point I had to get off the
16 highway because I couldn't tell if I was on the roadway, or
17 if I was off the roadway. So the guidance of trees on the
18 side of the road through the town streets actually helped
19 us guide the path to Good Samaritan.

20 Once we arrived, we walked to the emergency department
21 where Mr. O'Keefe was initially treated, and where he
22 remained. Upon arrival, we spoke with medical personnel
23 who advised us that the defendant had, at that point, been
24 discharged from the hospital, and that Mr. O'Keefe was
25 still in the emergency room and available for us to view.

1 Q At that point, you said the defendant had been
2 discharged. She was not the defendant at that point?

3 A No, she was not, no.

4 Q Did you have a chance to enter a room or actually see
5 Mr. O'Keefe?

6 A Yes, I did.

7 Q Had he passed at that time?

8 A Yes, he has.

9 Q When you walk in the room, what do you see?

10 A When I walked into the room, I saw a medical bed in
11 front of me. Mr. O'Keefe was covered with a sheet as
12 typical with any victim that had passed. There was a pile
13 of clothing to the left at his feet -- to the left of the
14 bed. I observed several injuries on him once I lifted the
15 sheet, and those were documented with photographs by crime
16 scene services member of the state police who also met us
17 at the hospital for that purpose.

18 Q So there were other members of the team that were there
19 to photograph --

20 A Yes.

21 Q -- Mr. O'Keefe and some of the injuries?

22 A Yes.

23 Q How many people were in the room with you and Mr.
24 Proctor when you were observing and viewing Mr. O'Keefe?

1 A There was a total of three of us: myself, Mr. Proctor,
2 the crime scene services individual. There was medical
3 staff coming in, nurses asking us if there was anything
4 that we needed to assist us with. But from law enforcement,
5 there was three of us there.

6 Q Now, I don't want you to try to give us a diagnosis or
7 provide us an opinion of the cause of any of his injuries,
8 but rather I want you to share with us as you were
9 observing Mr. O'Keefe in that hospital room, what are you
10 seeing and what is standing out to you?

11 A I saw pooling of blood underneath his head. There was
12 seepage of blood into the sheets. There was also swelling,
13 discoloration, a large amount of blood pooling underneath
14 his eyelids. There was no abrasions or injuries that I
15 observed to that region. So to me, through my training and
16 experience, I took that as --

17 MR. JACKSON: Objection.

18 THE COURT: Not to the medical -- not to any medical
19 observations, but just you as law enforcement.

20 THE WITNESS: Yes, Your Honor.

21 Q I'd ask you not to give your personal interpretations
22 of what you saw. Rather, I want you to share with the jury
23 what you saw through your view.

24 A There was also a tiny cut, laceration to the eyelid
25 area (indicating).

1 Q You're pointing to your right eye --

2 A Yes.

3 Q -- could you continue, please.

4 A Yes, also on the left nostril, there was a very small
5 laceration there. Both were not actively bleeding. There
6 were a series of cuts and bruises to the right arm, which
7 extended from approximately mid-forearm up to the mid-
8 tricep area of Mr. O'Keefe, and they were concentrated on
9 the exterior of the arm. There was no other injury or
10 marks on the interior or inside of the arm.

11 There was also a bruise on that same arm on the back of
12 the hand. It was light in color. It wasn't a profound
13 discoloration as the eyes appeared to me. There were also
14 injuries to abrasion or cuts, scrapes to the knee, I
15 believe.

16 Q Which knee?

17 A The right knee. I apologize.

18 Q You at first described swelling in the right eye, and
19 then you had just said the eyes.

20 Could you be specific? Was the swelling in one or both
21 eyes when you saw Mr. O'Keefe?

22 A When I saw Mr. O'Keefe, the swelling was in both eyes.
23 It might not have been exactly symmetrical, but there was
24 swelling/discoloration in both eyelids of Mr. O'Keefe.
25 There was also blood pooling in the cavity of the eyeball

1 -- both sides of the eyeballs.

2 Q Do you know about what time it was that you visited Mr.
3 O'Keefe and made these observations?

4 A It was sometime between 12:30, 1 o'clock and 2 o'clock,
5 I would assume.

6 Q You mentioned that there was pooling on the back of Mr.
7 O'Keefe's head; did you look for any injury?

8 A Yes, we looked for injury. All I could tell there was
9 bleeding happening. I could not tell exactly what the
10 extent of the injury, was not being a medical professional.

11 Q You mentioned there were a pile of clothes in the
12 floor. Is that uncommon?

13 A No, it's not uncommon at all.

14 Q Did you have any opportunity or did you decide to look
15 at those clothes?

16 A Yes. What happened is the reason those clothes are on
17 the floor is that for medical therapy, for medical
18 treatment, the victim has their clothing removed for access
19 to the body. There's obviously all sorts of equipment and
20 medical procedures that's done. So that clothes is
21 discarded. We knew that it was Mr. O'Keefe's clothing. We
22 knew that it would be important to aid us in the
23 investigation, so that clothing was picked up, identified
24 item by item and bagged. It was in a soaking wet state with
25 moisture and other debris on it.

1 Q When you are looking at Mr. O'Keefe, do you have to
2 touch him or move him?

3 A Yes. During our investigations, we're not simply
4 looking at photographs. We are there in the scene. We are
5 smelling it. We are touching it. We are, unfortunately,
6 with certain pungent scenes, we are tasting it. That's the
7 reality of us breathing in the scene when we're living it
8 through the investigation.

9 Q Do you wear any type of protection?

10 A Absolutely. We wear gloves. At times, we wear other
11 PPE, personal protective equipment.

12 Q When you looked at Mr. O'Keefe's clothes, you said that
13 you bagged them, did anything stand out in particular about
14 his set of clothing?

15 A In particular, we were a sneaker of his missing that
16 was very significant to me. And it caused me have Michael
17 Proctor contact the paramedics that transported Mr. O'Keefe
18 to the hospital and confirm with them, conduct a secondary
19 check, that that sneaker was not left behind in the
20 ambulance.

21 Q Why was the missing sneaker significant to you at that
22 point?

23 A At that point, our theory had evolved to a vehicle
24 strike based on the injuries, and I was suspecting that he
25 was hit out of his shoes.

1 Q Is there a phrase that's common in these type of
2 situations?

3 A Yes.

4 Q What's that?

5 A Knocked out of your shoes.

6 Q Did you know where the other sneaker was?

7 A I did not, no. But I suspected since it was missing
8 and once the reports came in that the paramedics, EMT
9 personnel did not find the other sneaker, that it would be
10 somewhere where Mr. O'Keefe was found, or where he was
11 initially struck by a vehicle.

12 Q Did you and Mr. Proctor have an opportunity around that
13 time at 12:30, 1 o'clock to go back to that address to look
14 for the sneaker?

15 A We did not, no.

16 Q Why not?

17 A Again, during the critical early hours of an
18 investigation, timing is essential. We have to make sure
19 we get to any and every location that could possibly have
20 evidence and prevent that evidence from being destroyed,
21 altered, or concealed. So we are prioritizing missions,
22 and with the resources available at that time, I
23 conferenced with my boss and advised him of the current
24 status of the information that we had, and he stated that

1 he would go out and marshal up resources to conduct a
2 search.

3 Q Is this an example of the team approach with the state
4 police at the homicide unit?

5 MR. JACKSON: Objection.

6 THE COURT: Sustained.

7 Q After having this information and making these
8 observations of Mr. O'Keefe yourself and bagging the
9 clothes, where did the evidence lead you next?

10 A At this point, once we viewed the clothing and Mr.
11 O'Keefe, we had to go talk to the last person that saw him,
12 and that would have been at the time his girl --

13 MR. JACKSON: Objection.

14 THE COURT: Who did you go see?

15 THE WITNESS: The defendant, Your Honor.

16 MR. JACKSON: Move to strike the prior --

17 THE COURT: The prior question, it wasn't answered. So
18 the prior question is struck.

19 Q Do you know where Ms. Read was at that point?

20 A Yes, we had learned that she traveled to her parents'
21 home in Dighton.

22 Q Did you learn about any or did you have any interest in
23 any physical evidence at that point?

24 A Yes. With the missing shoe, her stating that, "Did I
25 hit him," and along that line of statements, I was

1 interested in the vehicle that she was operating that
2 night.

3 Q How far was Dighton from where you were at Good
4 Samaritan Hospital?

5 A Typically, I would say it's probably a 35, 45 minute
6 drive. With the driving conditions, it took us all of an
7 hour, hour 15 minutes.

8 Q Who was driving?

9 A I was driving.

10 Q Were you in a issued vehicle, or were you in a personal
11 vehicle?

12 A No, I had to drive my personal pickup truck due to the
13 weather. My cruiser would had never made the unplowed
14 streets of the area.

15 Q Was Mr. Proctor with you?

16 A He was.

17 Q Were you by his side the entire time?

18 A Mr. Proctor and I were together the entire day.

19 Q You decided to go or drive towards Dighton. Did you
20 ultimately make it Dighton?

21 A Yes, we did.

22 Q Do you know what time you arrived in Dighton,
23 approximately?

24 A Approximately 3:00 p.m.

1 Q On your way down to Dighton, did you learn any further
2 information beyond what you had known when you left Mr.
3 O'Keefe at Good Samaritan?

4 A Yes. At one point, Michael Proctor took a call from
5 Jen McCabe, and she further elaborated and provided
6 information stating that she remembered --

7 MR. JACKSON: Objection.

8 THE COURT: Sustained.

9 Q After receiving that information, is there something
10 specifically you wanted to look at when you got to Dighton?

11 A Yes. We wanted to look at the right taillight. Based
12 on the information provided, it was allegedly to --

13 Q Let me stop you there. I just want to know what you
14 wanted to look at.

15 A Yes, sir.

16 Q I don't want to relate conversations of someone who's
17 not here.

18 So you had an interest in looking at the right rear
19 taillight?

20 A Yes.

21 Q Do you know what type of vehicle you were looking for?

22 A We were looking for a large black Lexus SUV.

23 Q When you made your way down to Dighton, you said you
24 finally arrived. How did you know you were at the right
25 address?

1 A The defendant provided her parents' address to us.

2 Q Before you got to Dighton, after learning of new
3 information and the information you already had, did you
4 make any arrangements?

5 A Yes.

6 Q Tell the jury what you did on the way down to Dighton.

7 A On the way down, we contacted the Dighton Police
8 Department and gave them a heads up that we would be coming
9 down for an investigation, and we were looking to most
10 likely seize a vehicle, and we were requesting their
11 assistance in contacting a local tow truck company that
12 they were contracted with and/or also to assist us at the
13 scene being a uniform presence.

14 Q When you pull up to the address, did you make any
15 immediate observations while you were still inside your
16 truck?

17 A Yes. The road was not well plowed. There was only
18 enough clearance for one vehicle. So it was difficult to
19 find a place to park and maneuverability was also
20 challenging.

21 Q Did you make any observations of the home or the
22 driveway before you got out of your truck?

23 A Yes, the home is to the left of the driveway. The
24 driveway was not plowed either. There was a large black
25 Lexus SUV parked in the driveway.

1 Q Was the front of the SUV facing you or the back of the
2 SUV?

3 A The back of the SUV was closest towards us.

4 Q How far from the SUV were you when you first parked at
5 that address?

6 A Probably -- it's the length of the driveway based on my
7 memory now, I would probably estimate it to be 60 feet or
8 so.

9 Q Did you make any observations of the SUV from that
10 distance?

11 A It was covered with snow like it's been either sitting
12 outside or driven outside in the snow, so it was exposed to
13 the elements.

14 Q What was your next steps?

15 A We waited for Dighton PD to arrive to assist us. Once
16 they arrived, Michael Proctor, and I exited and proceeded
17 up the driveway. I told Michael --

18 Q Let me stop you with what you said. I want to just
19 know what you observed.

20 A Okay.

21 Q As you're walking up the driveway, how close to that
22 SUV did you get at its closest?

23 A At its closest, I got as close as me and the defense
24 table which is probably 10 to 12 feet.

1 Q From the 10 to 12 feet, did you notice anything
2 remarkable about the SUV?

3 A Yes. There was a large piece of red taillight cover
4 missing from the vehicle.

5 Q After you made an observation of a large piece of the
6 red taillight cover missing, did you do anything else
7 relative to the SUV at that time?

8 A Yes, I told Michael to get close --

9 Q I don't -- I'm not interested in what he did. What did
10 you do? What did you see?

11 A I just saw the damaged, missing taillight cover. I did
12 not touch it. We did not approach it with physical
13 contact, so.

14 Q Did you see where Michael Proctor went?

15 A Yes.

16 Q How close to the car or to the vehicle did he get?

17 A Within 3 feet.

18 Q Did he ever touch it?

19 A No.

20 Q Where did you and Michael Proctor go next?

21 A We proceeded to the front door of the home to make
22 contact with the residents.

23 Q And how clearly did you see that missing piece? What's
24 your level of certainty?

25 A A hundred percent.

1 Q Did you knock on the door?

2 A Yes, I did.

3 Q And were you invited in?

4 A We were, but not through the front door. Due to the
5 weather and the piled up snow, we couldn't open the storm
6 door. Mr. Read invited us into the home through the
7 garage. He opened the garage door for us and welcomed us
8 inside.

9 Q When you went inside, what did you see?

10 A We went inside; I saw Mr. Read, Mrs. Read, and the
11 defendant sitting on the couch.

12 Q You've referred to the defendant a number of times as
13 Ms. Read. Do you see the defendant here in the courtroom
14 today?

15 A I do.

16 Q And the person you spoke to that morning, can you point
17 that person out and describe an article of clothing they're
18 wearing?

19 A She's sitting in the middle right there front of me
20 wearing a black suit with a yellow colored metal buttons on
21 it.

22 Q When you walked in, you said -- did you say that the
23 defendant was sitting on a couch?

24 A She was.

25 Q How close were you when you were speaking to her?

1 A Within 12, 15 feet. We were in the same room, in the
2 living room area.

3 Q Was Mr. Proctor there?

4 A He was.

5 Q Was Mr. Proctor speaking to her?

6 A He was.

7 Q Were you speaking to her at the same time or were you
8 changing?

9 A We were both communicating with her. A team approach.

10 Q I want to ask you about that conversation you had with
11 Ms. Read. Before I do, Your Honor, may I approach briefly?

12 THE COURT: Okay.

13 (Sidebar commences:

14 end of sidebar.)

15 THE COURT: Jurors, feel free to stand up.

16 Counsel, why don't you come back for a minute.

17 (Sidebar commences:

18 MR. BRENNAN: Can I just clarify the record real quick?

19 THE COURT: Yes.

20 MR. BRENNAN: This was provided in discovery and was
21 testimony in a past trial, so this is not a Rule 14 issue.

22 MR. ALESSI: We're looking at --

23 THE COURT: Mr. Jackson has to speak.

24 MR. JACKSON: Okay. We're currently looking for the
25 report. My memory of the report --

1 THE COURT: You need to speak so she can hear.

2 MR. JACKSON: My memory of the report is at odds with
3 what had been suggested. I can't rely on my memory, which
4 is why we're looking for the report real quick.

5 THE COURT: Do you doubt that Mr. Read was the one that
6 went and did the interview?

7 MR. JACKSON: Yes. Yeah. My understanding is as
8 follows: That once they were contacted and both Michael
9 Proctor and Trooper Bukhenik were in the room, at some
10 point, they began questioning that there was a voluntary
11 conversation up to a point at which Ms. Read said, "I'm not
12 comfortable answering any more questions. I don't want to
13 answer any more questions at this point." She ended the
14 interview. Bill Read said nothing. That is what's been
15 reported to me, and that's what's reflected --

16 THE COURT: According to this report, she does invoke.

17 MR. JACKSON: Yeah.

18 MS. LITTLE: It specifically says, "It was at this time
19 I asked Karen the follow-up question regarding how she
20 pulled up to the residence and which way her vehicle was
21 facing." It was at this time --

22 THE COURT REPORTER: Ms. Little.

23 THE COURT: Okay. You're not being heard.

24 MR. BRENNAN: Excuse me. Let me get out of your way.

1 THE COURT: All right. So it's in the transcript that
2 she invoked.

3 MS. LITTLE: Yes.

4 THE COURT: So you're not going to get into it.

5 MR. BRENNAN: No, absolutely not.

6 THE COURT: Okay. So we don't need to have this
7 discussion.

8 MR. BRENNAN: I have a transcript that is different,
9 but if it says that, I'm going to err on the side that's
10 the version, so I'm not going to --

11 THE COURT: Is that this trooper's report?

12 MS. LITTLE: Yes.

13 MR. JACKSON: It is.

14 MR. BRENNAN: Yeah, that's it.

15 THE COURT: All right. Thank you.

16 MR. BRENNAN: Sorry for the time.

17 THE COURT: That's okay.

18 end of sidebar.)

19 THE COURT: So is it appropriate for me to give an
20 instruction right now, Mr. Brennan?

21 MR. BRENNAN: I would defer to counsel.

22 THE COURT: Mr. Jackson, do you want me to give a
23 humane practice instruction?

24 MR. JACKSON: Yes.

1 THE COURT: So, folks, you're about to hear testimony
2 regarding a statement or statements that were allegedly
3 made by or attributed to Ms. Read. I'm going to instruct
4 you in more detail at end of the case about this matter,
5 however, I want you to understand that at this time, as the
6 statements are offered into evidence, that before you may
7 consider the content of any such statement made by the
8 defendant as evidence, you're going to have to make a
9 preliminary determination about whether or not it can be
10 considered by you as evidence at all.

11 In your determination, at the end of the case, you're
12 not to consider any such statement by the defendant as
13 evidence, even though it's presented to you through a
14 witness at trial, unless from all the evidence in the case
15 you first determine that the Commonwealth has proved beyond
16 a reasonable doubt that Ms. Read made the statements she is
17 alleged to have made, and that she made it voluntarily,
18 freely, and rationally.

19 All right. Go ahead, Mr. Brennan.

20 MR. BRENNAN: Thank you, Your Honor.

21 Q Sir, I want you to begin from when you were in the
22 living room, the beginning conversation with the defendant,
23 the presence of both her father and mother, and you're with
24 Mr. Proctor. Can you share with us the conversation that
25 you had with the defendant?

1 A Yes, she stated that she's willing to answer our
2 questions, but she didn't want to go into too many details.
3 That's how the conversation began. She provided us the
4 fact that Mr. O'Keefe was hanging out with a friend at 5:00
5 p.m. at the One Meadows Avenue residence following which he
6 proceeded to CF McCarthy's in Canton where the defendant
7 stated that she met him approximately at 9:00 p.m. She was
8 drinking vodka sodas. Mr. O'Keefe was consuming Bud Lite
9 beer. After CF McCarthy's, they proceeded to the Waterfall
10 Grille and Bar. At this point, the defendant was asked if
11 she brought a beverage with her from CF McCarthy's to the
12 Waterfall establishment to which she stated she didn't
13 think so.

14 After the Waterfall, the defendant stated that she
15 dropped Mr. O'Keefe off at 34 Fairview Road. She was asked
16 if she saw him go in the house. She stated, no, she did not
17 see him go in the house. She was asked about the damage to
18 her rear taillight to which she stated, quote, I don't know
19 how I did it last night, end quote.

20 Once she provided us with the fact that she dropped him
21 off and never saw him go in the house, she was asked to
22 provide details about her leaving. She stated that she
23 made a three-point turn and left. She was asked to provide
24 some explanation how Mr. O'Keefe sustained those injuries
25 that he had. She did not --

1 Q Let me stop you there. Did you get an answer to your
2 question about how he sustained the injuries or the details
3 about the three-point turn?

4 A No, I did not.

5 Q You mentioned that when you were at Good Samaritan
6 Hospital you saw blood on the back of Mr. O'Keefe's head?

7 A Yes.

8 Q Did you ask the defendant anything about that injury?

9 A Yes. We asked about the injuries that Mr. O'Keefe had
10 that had -- that he had been displaying and whether or not
11 he had those injuries the night prior at either McCarthy's
12 or Waterfall, to which the defendant said she didn't see
13 any injuries on him, but then she provided a statement
14 saying that Mr. O'Keefe bumped his head two nights prior
15 and asked her about it, which to me seemed kind of strange,
16 but.

17 Q Without the commentary.

18 A Mm-hmm.

19 Q After she told you that Mr. O'Keefe had bumped his head
20 two nights prior, and that he had asked about or she had
21 asked about it?

22 A She stated that he had bumped his head two nights prior
23 and Mr. O'Keefe asked her about it.

24 Q Did you say when Mr. O'Keefe asked her about the bump
25 on his head from the few nights before?

1 A No, she did not.

2 Q Did the conversation conclude?

3 A Yes, it did.

4 Q After the conversation concluded, what was your next
5 step?

6 A Once the conversation concluded, the defendant was
7 advised that her vehicle is being seized and her cell phone
8 was also seized.

9 Q Were there any other items at that point that you were
10 seizing other than the cell phone and the vehicle?

11 A Not from that location, no.

12 Q Did you have a warrant at that point?

13 A We did not, no.

14 Q Did you have authority to seize items prior to having a
15 warrant?

16 MR. JACKSON: Objection, Your Honor.

17 THE COURT: I'll allow that.

18 Q What is the process when you want to obtain items but
19 you don't have a warrant? What process do you go through?

20 A We seize them to prevent any alteration/destruction of
21 the evidence that could be contained on those items pending
22 a warrant. They are secured. They're not touched or
23 processed by us. The process of obtaining a warrant
24 includes writing an affidavit justifying --

25 MR. JACKSON: Objection.

1 THE COURT: Yeah, we don't need hear any of this part,
2 Mr. Brennan.

3 MR. BRENNAN: Understood.

4 Q Did you ultimately obtain both the phone and the
5 vehicle?

6 A Yes we did.

7 Q Describe how the vehicle was seized. What happened?

8 A The defendant provided her key card - it looks like a
9 credit card size key fob for the vehicle - to allow the
10 ignition to start. It was driven onto a flatbed tow truck,
11 secured, and then we followed it from Dighton to the Canton
12 Police Department.

13 Q Was video ever provided that showed part of that
14 vehicle being loaded onto the tow truck?

15 A Yes, it was.

16 Q Have you ever reviewed that video?

17 A Yes, I did.

18 Q When you were at Dighton and the defendant's Lexus was
19 being put on the tow truck, about what time was that?

20 A It was approximately 4:16, 4:15 in the afternoon on the
21 29th of January, 2022.

22 Q Now, you mentioned that you took a cell phone. Are
23 there parts or people, participants on the team, that
24 handle that specific type of evidence?

1 A Yes, we have troopers that are specialized trained and
2 have expertise in digital forensic analysis, extraction,
3 and processing of digital devices.

4 Q Is that something you do?

5 A I am trained in certain portions of it, but I am not an
6 expert like them.

7 Q Did you manipulate the phone in any way?

8 A No.

9 Q Did you see Mr. Proctor manipulate the phone in any
10 way?

11 A I don't recall seeing it, no.

12 Q Before the vehicle was moved during the loading of the
13 tow, did either you or Mr. Proctor go back anywhere near
14 that vehicle?

15 A We were near the vehicle once it was unloaded, but we
16 never touched it.

17 MR. JACKSON: Objection. May we approach, briefly?

18 THE COURT: Okay.

19 (Sidebar commences:

20 THE COURT: I was just going to strike the end of that
21 answer.

22 MR. JACKSON: Thank you, Your Honor. I would ask that
23 it be stricken in front of the jury. But also, I would ask
24 that the witness be -- I don't want to keep objecting, but

1 he's constantly saying "we", "we didn't do this," "we took
2 that."

3 MR. BRENNAN: I'll be more specific and say, "What did
4 you see, and what did you do?"

5 MR. JACKSON: I would appreciate that. I don't think we
6 need an instruction to him at this point, but I just wanted
7 to highlight. I didn't want to keep --

8 MR. BRENNAN: Yep, I'll be on it.

9 One last thing while we're here. I do plan on getting
10 into his sustained findings and part of that is the text --

11 THE COURT: Yeah, I wanted to know specifically what
12 wording. What was --

13 MR. BRENNAN: I have a copy of it. I'd like to show it
14 on the screen. Perhaps you might want to see it before I
15 do that. What time is the break and I can try to put other
16 stuff in so I don't interrupt.

17 THE COURT: How far can you go before we take a break?

18 MR. BRENNAN: I could put it anywhere in the
19 examination, so I can go for a while.

20 THE COURT: All right. If you can go to 10:30 or
21 quarter of 11.

22 MR. BRENNAN: Sure.

23 THE COURT: If you can pass a copy up of it. I'll take
24 a break and look at it.

25 MR. BRENNAN: Okay.

1 THE COURT: But you intend to put it up?

2 MR. BRENNAN: I do.

3 THE COURT: Is there an objection to that?

4 MR. ALESSI: No, there's not an objection. I intend to
5 go into it in cross-examination as well.

6 THE COURT: All right. Thank you. So I'll just strike
7 the last portion.

8 MR. BRENNAN: All right. And I'll focus on directing
9 him more clearly.

10 THE COURT: Thank you.

11 MR. JACKSON: Thank you.

12 end of sidebar.)

13 THE COURT: Jurors, I'm going to strike the last
14 portion of that answer.

15 Q From the point you went in and spoke to the defendant
16 until the vehicle was placed on the back of the flatbed,
17 did you ever go back near the vehicle and touch it in any
18 way?

19 A No.

20 Q Did you ever see Mr. Proctor go back near that vehicle
21 and touch it in any way?

22 A No.

23 Q You mentioned that the tow was loading the vehicle the
24 defendant's Lexus around 4:15?

25 A I believe so, yes.

1 Q Did you join the tow truck driver or did you keep your
2 separate vehicle at that point?

3 A We traveled in my --

4 MR. JACKSON: Objection.

5 THE COURT: I'll allow it.

6 A I drove my vehicle and followed the tow truck back to
7 the Canton Police Department.

8 Q Where was Mr. Proctor?

9 A In my front passenger seat.

10 Q During that time, had you made arrangements or did you
11 receive any information about other members of the team
12 engaging in any searches relative to this case?

13 A Yes, I have.

14 Q And what did you learn?

15 A I learned that Detective Lieutenant Tully had --

16 MR. JACKSON: Objection.

17 THE COURT: I'm going to allow it.

18 A Had dispatched other members of our unit to 34 Fairview
19 and other resources from the Massachusetts State Police to
20 assist him in a search for the missing shoe.

21 Q Do you know what time those other members arrived or
22 began to arrive at 34 Fairview?

23 MR. JACKSON: Objection.

24 THE COURT: Sustained.

1 Q You begin your travels at 4:15 p.m. back to Canton
2 Police Department. Why did you choose to bring the vehicle
3 to the Canton Police Department if the Canton police
4 detectives were not working on this case anymore?

5 A They had a heated storage facility being the sally
6 port. We needed to preserve the vehicle as best we could
7 away from the elements, and it was also in close proximity
8 to our office. Also to process the vehicle and get the
9 search warrant from the local courthouse would've been more
10 convenient for us.

11 Q Why was a heated sally port or heated garage important
12 to you?

13 A The vehicle was impacted with snow that accumulated.
14 And also from traveling on the highways, it was packed with
15 a shell of snow covering the exterior of it. So it would
16 melt away in the heated sally port.

17 Q Were you intending on having other resources or other
18 team members or other units available to look at the
19 vehicle at some point?

20 A Yes, we were.

21 Q Who were you intending? What did you expect would
22 happen with the vehicle in the future?

23 A For one, we would have to document the exterior of it
24 with photographs. That would be crime scene services
25 section. We would process it for fingerprints, which would

1 be also a service the crime scene services section
2 provides. We would, if needed, take swabs for DNA or other
3 latent evidence so that would be the chemist. As well as
4 if the authority was there to process the internal
5 workings, the computer chips, and the infotainment system
6 of the vehicle, and that would be a digital forensics
7 expert that's trained in that field.

8 Q Would an unheated garage or sally port impede that?

9 A Yes.

10 Q Given that Canton police department was not now part of
11 the active investigation, did you have any concern bringing
12 it to the Canton Police Department?

13 A No.

14 Q You said you left Dighton at 4:15. What time
15 approximately did you and Mr. Proctor and that Lexus arrive
16 at the Canton heated sally port garage area?

17 A We arrived at the Canton Police Department at 5:30, and
18 the vehicle was unloaded and placed into the garage at 5:35
19 p.m.

20 Q Did you and Mr. Proctor go into the garage?

21 A Yes, we did.

22 Q And in the garage, what were you doing?

23 A We helped facilitate putting yellow --

1 Q I' going to ask what you were doing and then what you
2 saw Mr. Proctor doing. Rather than use we, I want to be
3 very specific what you did and saw.

4 What were you doing?

5 A I helped put up yellow caution tape around the vehicle
6 to prevent anyone from coming near it and touching it.

7 Q Were there any other persons in that area other than
8 you and Mr. Proctor?

9 A There were members of the Canton Police Department.

10 Q Did you make observations of the vehicle once you had
11 it in that sally port area?

12 A Yes, I did.

13 Q You mentioned that it was packed with snow. Was there
14 snow still on it when you brought it into the sally port?

15 A Yes, there was.

16 Q Did you wipe the car down or clean the car of the --

17 A No.

18 Q -- of the snow?

19 A No.

20 Q Do you touch the vehicle in any way with your hands?

21 A No.

22 Q Did you ever see Mr. Proctor touch that vehicle?

23 A No, he did not.

24 MR. JACKSON: Objection.

25 THE COURT: I'll sustain it.

1 MR. JACKSON: Move to strike, Your Honor.

2 THE COURT: I'll strike it. Ask it differently, Mr.
3 Brennan.

4 Q Did you ever see Michael Proctor touch that vehicle
5 while you were in the sally port area?

6 A I did not.

7 Q How long did you remain in the sally port area for, do
8 you know?

9 A We remained the sally port area approximately until
10 5:51 and change based on the best of my memory.

11 Q After you left the sally port area, where did you go?

12 A We left the sally --

13 MR. JACKSON: Objection.

14 A I apologize.

15 THE COURT: Go ahead. If you can say first what you
16 did and then wait for the next question, please, Sergeant.

17 A I left the sally port area and proceeded inside the
18 Canton Police Department.

19 Q Where was Mr. Proctor?

20 A He was with me.

21 Q By your side?

22 A Yes.

23 Q Did he ever leave your sight?

24 A I'm sure at some point he walked away from me, but I
25 can't -- we were traveling together all day.

1 Q You went into a different part of the Canton Police
2 Department?

3 A Yes.

4 Q Where did you go?

5 A Into the dispatch area and then the conference room
6 upstairs later on.

7 Q Why did you go up to the conference room?

8 A The conference room was provided for us to use as a
9 meeting location. The members of our unit that had
10 assisted at the 34 Fairview Road scene had traveled back to
11 Canton police, and we were meeting there to share, exchange
12 information based on what we have learned with our portions
13 of the investigation that way everyone's on the same page
14 at that point.

15 Q Did you meet -- is this team, is it called a SERT team?

16 A There is a SERT team.

17 Q Do you know if the SERT team was the team that went to
18 34 Fairview?

19 A Yes, I do.

20 Q Did you meet with the entire SERT team that night at
21 the Canton Police Department or some members?

22 A Not the entire team, no.

23 Q When you had the meeting in that room, who did you meet
24 with?

1 A In that room, specifically remember being Detective
2 Lieutenant Tully, myself, Michael Proctor, and other
3 members of our homicide and narcotics section assigned to
4 the Norfolk County District Attorney's Office.

5 Q Did you discuss the evidence you had up to that point?

6 A Yes.

7 Q Regarding 34 Fairview Road, did you develop or decide
8 any plans to physically go back to that area?

9 A Yes, I did.

10 Q And what was the plan?

11 A The plan was to take shovels and rakes and other
12 gardening equipment and go back to that location to
13 excavate for additional evidence.

14 Q When did you make the decision that you were going to
15 go back to 34 Fairview Road?

16 A It was that evening.

17 Q Why did you decide you were going to go back at some
18 point?

19 A During the recall of all the information learned and
20 sharing of that information with other members of our
21 investigative team, it was realized that Mr. O'Keefe was
22 wearing a black baseball hat, and at this point in time,
23 that article of clothing was still missing.

24 Q Was there something impeding a full and complete
25 investigation of the scene?

1 A At 34 Fairview?

2 Q Yes.

3 A Yes, the heavy, large amount of snow that had
4 accumulated over the last 12 hours or so heavily hindered
5 our investigation of that immediate scene.

6 Q When you were debriefed, did you learn the area where
7 the SERT team had spent most of their time searching?

8 A I'm sorry. Can you repeat that, sir?

9 Q When you were debriefed, were you informed of the area
10 that the SERT team spent most of their time searching?

11 A I don't recall on the specifics of it, no.

12 Q Now, at some point did you obtain a Registry of Motor
13 Vehicle record and certificate for the Lexus that you had
14 towed? A Yes, we did.

15 MR. BRENNAN: May I approach?

16 THE COURT: Yes.

17 Q Sir, do you recognize this?

18 A Yes, I do.

19 Q And if you could take a look at the following pages?

20 A (Witness complies.)

21 Q And what is that, sir?

22 A It is the Massachusetts Registry of Motor Vehicle title
23 history and registration inquiry for a black in color Lexus
24 LX year model 2022 bearing Massachusetts registration
25 3GC684 registered to Karen Read.

1 MR. BRENNAN: Your Honor, I'd move this document into
2 evidence.

3 MR. JACKSON: No objection, Your Honor.

4 (Whereupon Exhibit No. 84, RMV Certificate, was marked as
5 an exhibit.)

6 Q As part of your continued investigation, did you have
7 an opportunity to obtain documents and items?

8 A Yes.

9 Q Did you listen to audio recordings that were included
10 statements of the defendant?

11 A Yes, I did.

12 Q Did you listen to audio recordings from different
13 sources?

14 A Yes, I did.

15 Q What did some of those sources include?

16 A *Dateline, 2020, Gretchen Voss, Fox 25, various media*
17 *platforms.*

18 Q I want to walk through some of the evidence in more
19 chronological order of date.

20 So going back to January 29, 2022, at the hospital you
21 obtained some items?

22 A Yes, sir.

23 Q Did you bring those items with you today?

24 A Yes, I did.

1 Q I want to talk about the progress of those items from
2 when you first obtained them until today.

3 You mentioned that they were clothes that you obtained
4 at the hospital of Mr. O'Keefe?

5 A Yes, sir.

6 Q And you shared with us that they were wet and you put
7 them in bags?

8 A Yes, sir.

9 Q That night, where did those clothes go when you left
10 the hospital?

11 A Those clothes while bagged up, they remained in the
12 back cab portion behind my driver's seat of my pickup truck
13 on the floorboard.

14 Q Where did you bring them that night?

15 A That bag containing all those clothing traveled with me
16 around the area as we investigated, and then after the
17 debrief at Canton PD, we brought them directly here or to
18 the Canton office of the district attorney.

19 Q Do you have those items with you at the Canton Police
20 Department?

21 A They were in my truck. I didn't bring them into the
22 office.

23 Q Did they remain in your truck while you were in the
24 Canton Police Department?

1 A Once I placed that bag in the back of my truck, I did
2 not touch until I removed it from the truck at the Canton
3 District Attorney's Office to bring it in.

4 Q When did you remove it from your truck and bring it
5 into the district attorney's office?

6 A Probably around 8:00 p.m. on the 29th of January, 2022.

7 Q When you brought the clothes inside, where did you
8 bring them?

9 A We brought them to the temporary evidence processing
10 area within the district attorney's office in the state
11 police section of the office where we have our desks and
12 workspaces. There's a designated area for -- at the time,
13 for evidence processing.

14 Q What did you do with the clothes once you got them into
15 the secured area in the district attorney's office?

16 A Once the clothing was in that secure area, we had to
17 lay them out to dry.

18 MR. JACKSON: Objection.

19 THE COURT: What you do if you could, Sergeant.

20 A I had to lay them out to dry them. So we -- I, excuse
21 me, I took a butcher paper, laid it out on the floor and
22 each item I removed and laid out onto that butcher paper to
23 dry.

24 Q Was anybody with you helping you?

25 A Yes.

1 Q And who's that?

2 A Michael Proctor.

3 Q Why did you lay out the clothing items one by one
4 separately?

5 A Each clothing item needs to dry naturally and prevent
6 moisture from being trapped. That moisture, if trapped,
7 could develop mold and damage any DNA evidence that we
8 could retrieve -- scientists could retrieve from the item.
9 To prevent that, we dried each item individually separating
10 each item for better air flow.

11 Q How long did it take for those items to dry?

12 A Several days.

13 Q And were they in that secure area on the butcher paper
14 for several days?

15 A Yes, sir.

16 Q Are there times when that separate area was left alone
17 nobody watching?

18 A Yes, sir.

19 Q Were those clothes ultimately moved from that area?

20 A Ultimately, they were moved, yes.

21 Q Did you personally remove them from that area?

22 A No, I did not.

23 Q Did you know if they were bagged and put into evidence?

24 A I do know they were bagged and put into evidence.

25 Q Is there an evidence locker at that office?

1 A Yes, there is.

2 Q Is it a secure area?

3 A Yes, it is.

4 Q Does every officer or trooper have access to that
5 evidence room?

6 A No, they do not.

7 Q Did you again see those items at a later date?

8 A Yes, I did.

9 Q And have you seen those items since?

10 A Yes, I have.

11 Q The items, the clothing items you took from the
12 hospital, do remember what items they were?

13 A Yes, I do.

14 Q Can you share with us your memory of what items they
15 are?

16 A It was a two-tone gray sweatshirt, light material
17 sweatshirt. It was an orange T-shirt. It was a pair of
18 blue jeans, a belt, and a pair of underwear boxers.

19 Q And did you bring those clothing items with you today?

20 A Yes, I did.

21 Q Beginning with the pants, do you have them with you up
22 at the stand, Mr. O'Keefe's pants?

23 A Yes.

24 Q Could you produce them, please?

25 A Yes, sir.

1 Q Do you have gloves, Trooper Bukhenik?

2 A Yes, I do.

3 MR. BRENNAN: I'd move this item into evidence.

4 THE COURT: Okay.

5 MR. JACKSON: No objection, Your Honor.

6 MR. BRENNAN: With the Court's permission I'd ask the
7 trooper to show the items.

8 THE COURT: Yes. Go right ahead, Sergeant.

9 (Item displayed.)

10 MR. BRENNAN: Thank you. May I approach, Your Honor?

11 THE COURT: Yes.

12 (Whereupon Exhibit No. 85, Evidence Bag Containing Pants,
13 was entered as an exhibit.)

14 Q Did you learn during your conversations with the SERT
15 team and other members of the team that a sneaker was found
16 at 34 Fairview?

17 A Yes, I did.

18 Q Have you seen the photographs relative to that sneaker?

19 A Yes, I have.

20 Q And you mentioned when you were at the hospital there
21 was a sneaker, one?

22 A Yes.

23 Q Do you have that sneaker with you?

24 A I do.

25 Q Could you produce it, please?

1 A Yes, sir.

2

3 MR. BRENNAN: Your Honor, I'd move this item into
4 evidence.

5 THE COURT: Okay.

6 MR. JACKSON: No objection, Your Honor.

7 (Whereupon Exhibit No. 86, Sneaker, was marked as an
8 exhibit.)

9 MR. BRENNAN: May I have the Court's permission for the
10 trooper to show it to the jury?

11 THE COURT: Yes.

12 Q Trooper, is that the sneaker that was at the hospital
13 when you visited Mr. O'Keefe?

14 A No, sir, this is the sneaker from 34 Fairview.

15 MR. BRENNAN: Could I have that marked?

16 Q What -- is that a left or a right sneaker, sir?

17 A This is the left sneaker -- excuse me. This is the
18 right sneaker from 34 Fairview Road in Canton.

19 MR. JACKSON: Objection, Your Honor, may we approach?

20 THE COURT: Sure. If you could put the sneaker back in
21 the bag and let Mr. Brennan bring the bag over, please.

22 (Sidebar commences:

23 THE COURT: What does the bag say?

24 MR. BRENNAN: It says, "Left sneaker, 34 Fairview."

1 THE COURT: Okay. So Mr. McDermott has gone to get the
2 sneaker that was introduced.

3 MR. BRENNAN: This is not a left sneaker. This is the
4 right sneaker.

5 THE COURT: So Mr. Jackson is the one who has to speak.

6 MR. JACKSON: Right. Can I see the -- my objection was
7 just more confusion than anything, frankly. I thought that
8 was going to be the one that he found at the hospital, had
9 retrieved it, established the chain of custody.

10 THE COURT: So let's see what this bag says. Jimmy has
11 the one from yesterday.

12 MR. JACKSON: It says the word "right" on it but it's -
13 - but it does say left sneaker. Just for the record, this
14 does have an asterisk, and it's handwritten sneaker
15 indicates Brockton and Trooper Proctor.

16 THE COURT: This is -- Jimmy, can I see that, please.
17 I'll let you take it, Mr. Brennan, and then Mr. Jackson.

18 THE CLERK: For the record, that's Exhibit 17.

19 THE COURT: So the note says.

20 MR. JACKSON: "Left sneaker removed."

21 THE COURT: Okay. It's shaking the microphone. The
22 asterisk says.

23 MR. JACKSON: This says, "See note below," and the
24 asterisk says, "Left sneaker removed and packaged
25 separately. See item number 34 for left sneaker."

1 THE COURT: All right. So if we look at both of them,
2 it does appear that this bag contains the right sneaker and
3 the asterisk talks about the left sneaker for 34 Fairview.

4 MR. JACKSON: Removed and bagged them separately. So
5 this appears to be the right sneaker, but it appears to be
6 a left sneaker.

7 MS. LAUGHLIN: Your Honor, if I may. These items were
8 handled by the previous jury, and I believe inside the
9 evidence bag there's a Ziploc bag that has a left and a
10 right.

11 THE COURT: This is making noise for the microphone.

12 MS. LAUGHLIN: I think one of the Ziploc bags, those
13 aren't part of evidence. I think it's something that the
14 jury previously handled. So I'm assuming the jury may have
15 mismarked them, but it is something that was opened and
16 explored by a previous jury.

17 MR. JACKSON: I would propose the following. The jury
18 doesn't have to sit here and watch us go over this.

19 THE COURT: Right.

20 MR. JACKSON: Let's take a break, and Mr. Brennan and I
21 can fix this at the break, if that's okay.

22 THE COURT: Okay.

23 MR. JACKSON: We can probably stipulate.

24 THE COURT: Can you go through the rest of the clothing
25 and then finish?

1 MR. BRENNAN: Yes.

2 THE COURT: And then do this?

3 MR. BRENNAN: Yes.

4 MR. JACKSON: That's fine with me.

5 MS. LAUGHLIN: Your Honor, just so you're aware. The
6 rest of the clothing does require the trooper to get off
7 the stand to retrieve it just from that back room. It was
8 already retrieved.

9 THE COURT: Okay. So we will take a break. All right.
10 We'll take a 20 minute. What do you want me to look at,
11 particularly? I'll read the whole --

12 MR. BRENNAN: I'm going to introduce the fact that they
13 were a sustained finding for two different issues, and then
14 I would like to show and confront him with the text
15 messages that he's on the text message chain which should
16 be at the end of that document.

17 MS. LAUGHLIN: We need to print them and provide them
18 to the Court.

19 MR. BRENNAN: Oh, we don't -- I have a copy over there.
20 I'll give a copy.

21 THE COURT: All right. So we'll take a half an hour
22 break. That will give you all a chance to do this and also
23 take a break.

24 end of sidebar.)

1 THE COURT: Sergeant, we're going to take our morning
2 break, so I'm going to ask you to stick around.

3 Jurors, we'll take our morning recess because you don't
4 need to watch us over there fumbling with things. So we'll
5 take a half an hour just to make sure that everybody has a
6 break and is able to move forward smoothly. These things
7 happens when you have a lot of evidence in the courtroom.
8 So we will see you at 11 o'clock.

9 (Jury out.)

10 THE COURT: All right. If you need me for any of this,
11 just let me know and I'll come right back out.

12 MR. BRENNAN: Your Honor, may I be heard, briefly?

13 THE COURT: Yes.

14 MR. BRENNAN: May I during the break in the company of
15 a representative from that defense team speak to Trooper
16 Bukhenik about this issue?

17 THE COURT: I have no problem with that. Do you, Mr.
18 Jackson?

19 MR. JACKSON: No, no problem at all.

20 THE COURT: All right. I think it will facilitate
21 things. Yes, you may.

22 MR. BRENNAN: Thank you.

23 (Court in recess at 10:30 a.m.)

24

25

1 (Court in session at 11:04 a.m.)

2 (Defendant is present with counsel.)

3 (Jury in.)

4 THE COURT: All right. So you all set, Mr. Brennan?

5 MR. BRENNAN: I am. Thank you, Your Honor. May I?

6 THE COURT: Yes.

7 Q (By Mr. Brennan) Sir, when we left we were discussing
8 Mr. O'Keefe's sneaker that you retrieved from the Good
9 Samaritan Hospital?

10 A Yes, sir.

11 Q Would that be his right sneaker?

12 A It would be his right sneaker.

13 Q Do you have that sneaker with you today?

14 A I do.

15 Q And again, could you open that bag and show that right
16 sneaker to the jury?

17 A Yes, sir.

18 Q (Witness complies.)

19 Q Is that the sneaker you retrieved from the Good
20 Samaritan Hospital?

21 A Yes, sir.

22 MR. BRENNAN: I'd that into evidence, please.

23 THE COURT: Okay. Any objection, Mr. Jackson?

24 MR. JACKSON: No, Your Honor.

25 THE COURT: All right. Thank you.

1 (Whereupon Exhibit No. 86, Evidence Bag Containing Right
2 Sneaker, was marked as an exhibit.)

3 Q Trooper Bukhenik, there are two more items.

4 MR. BRENNAN: I'm sorry, Your Honor.

5 THE COURT: Okay. Go ahead.

6 MR. BRENNAN: Thank you, Your Honor.

7 Q Trooper Bukhenik, there are two more items that you
8 retrieved of John O'Keefe's clothing from the Good
9 Samaritan Hospital. Did you bring those items with you?

10 A Yes, sir.

11 Q Are those two of the items that you laid out on butcher
12 paper to dry?

13 A Yes, they are.

14 Q Were they ultimately bagged and put into evidence?

15 A Yes, they were.

16 Q And did you bring Mr. O'Keefe's T-shirt?

17 A Yes, I did.

18 Q Is it placed in an object so it can be seen?

19 A Yes, it was.

20 Q What type of object?

21 A It's a transparent plastic sheet.

22 MR. BRENNAN: I would move the T-shirt into evidence.

23 MR. JACKSON: No objection, Your Honor.

24 MR. BRENNAN: With the Court's permission, can Trooper
25 Bukhenik show it to the jury.

1 THE COURT: Yes.

2 A (Witness complies.)

3 Q Could you show the back as well, Trooper?

4 A (Witness complies.)

5 Q Thank you.

6 MR. BRENNAN: Mr. Brennan, could you help assist the
7 court reporter with that, please.

8 MR. BRENNAN: Of course.

9 (Whereupon Exhibit No. 87, T-Shirt, was marked as an
10 exhibit.)

11 MR. BRENNAN: Would you like me to place on that side?

12 THE CLERK: Yes, that would be great. Thank you.

13 Q And, Trooper Bukhenik, is there a last piece of item of
14 Mr. O'Keefe's that you took from the Good Samaritan
15 Hospital?

16 A Yes, there is.

17 Q And what is it?

18 A It's the sweatshirt.

19 MR. BRENNAN: I'd move that into evidence, Your Honor.

20 THE COURT: No objection, Your Honor.

21 MR. BRENNAN: With the Court's permission?

22 THE COURT: Yes.

23 Q Could you show the backside, too, please.

24 MR. BRENNAN: May I approach?

1 THE COURT: Yes, thank you. Next exhibit, please,
2 Madam Court Reporter.

3 (Whereupon Exhibit No. 88, Sweatshirt, was marked as an
4 exhibit.)

5 MR. JACKSON: Your Honor, may we approach briefly?

6 THE COURT: I'm sorry?

7 MR. JACKSON: May we approach briefly?

8 THE COURT: Oh, okay.

9 (Sidebar commences:

10 THE COURT: I thought you said there was no objection.

11 MR. JACKSON: There's not. I just want to make sure I
12 put a caveat on this. I have no objection to this. It
13 seems fine to me as it is. When it goes back to the jury,
14 it is this one that specifically needs to be removed from
15 the plasticine. There's specific evidentiary value to them
16 seeing the sleeve.

17 MR. BRENNAN: Agreed.

18 MR. JACKSON: I don't have any problem with this.

19 THE COURT: So let's store it like this for now.

20 MR. JACKSON: Right, agreed.

21 THE COURT: Is it likely, Mr. Jackson, not just before
22 it goes back -- excuse me, Mr. Jackson.

23 MR. ALESSI: I want to get out of the way.

1 THE COURT: Not just before it goes back to the jury,
2 but do you anticipate using it with another witness so we
3 know how to store it.

4 MR. JACKSON: I may. I may use it with another
5 witness, but I was thinking when Mr. Brennan was -- showed
6 it me the shirt first time, it's easy enough, if I need to,
7 take a razor blade just cut --

8 THE COURT: We need to know about storing it.

9 THE CLERK: Yeah, so I can get it.

10 MR. JACKSON: I have no problem with it being stored
11 for the timing as it is. I may with one or more of my
12 experts need it.

13 THE COURT: So just give us a heads up so we can have
14 it.

15 MR. JACKSON: I certainly will.

16 MS. LAUGHLIN: Your Honor, while we're here, based on
17 the last two prior exhibits - the shoe that was entered
18 into evidence, it's the understanding of both parties that
19 the items were mishandled or handled by the jury of the
20 previous at trial. So my suggestion would be on the bag to
21 mark it for ID, and, if, Your Honor, if we can put the shoe
22 that was just entered into evidence into another evidence
23 bag so it's clearly labeled and it does not mislead this
24 jury.

1 THE COURT: Okay. It makes sense. It creates a
2 clearer record, as well. Is there any objection to that?

3 MR. JACKSON: I have no objection to a new bag as long
4 as the old bag is also entered into evidence. It's got
5 Trooper Proctor's name on it, and I need that for --

6 THE COURT: Can we sanitize the other part of it where
7 it has the asterisk and all that, or any --

8 MR. JACKSON: If we can agree, yes.

9 THE COURT: Why don't --

10 MR. YANNETTI: We'll come to an agreement.

11 THE COURT: Yeah, why don't we all come --

12 MR. BRENNAN: I'll come to an agreement -- I don't
13 there will be any problem.

14 THE COURT: Just so the record is clear, we're likely
15 to change that bag and have it remarked, right?

16 MR. JACKSON: Right.

17 end of sidebar.)

18 THE COURT: Jurors, every piece of evidence that you're
19 getting is recorded, and we have to keep a very clear
20 record. So sometimes we spend time that may seem like a
21 waste of time to you, but it's very, very important for the
22 case, so we do appreciate your patience. All right.

23 Go ahead, Mr. Brennan.

24 MR. BRENNAN: Thank you.

1 Q Trooper Bukhenik, you shared with us that you met with
2 some of the members of the state police that night and then
3 returned to the Norfolk County District Attorney's Office
4 to put the clothing on butcher paper you called it.

5 What was your next step in your investigation?

6 A We met and discussed the next steps. My decision was
7 to go back to 34 Fairview and excavate for the missing
8 clothing item, being Mr. O'Keefe's hat. There was also
9 plans to start writing search warrants.

10 Q Did the weather get better over the next couple days?

11 A The weather did take a turn for the warmer
12 temperatures, yes.

13 Q Did you return to Fairview a few days later on February
14 3?

15 A Yes, I did.

16 Q Was that the first time you personally had visited 34
17 Fairview?

18 A Yes, it was.

19 Q When you went to 34 Fairview Road on February 3, 2022,
20 do you remember about what time in the morning you went?

21 A Sometime between 8:30, 9 o'clock, maybe 9:30.

22 Q When you went there, did you travel with anybody?

23 A Yes.

24 Q Who did you travel with?

1 A It was other members of my unit and a member from crime
2 scene services unit.

3 Q Did you all travel in the same vehicle, or did you meet
4 there?

5 A We all traveled in our own issued cruisers.

6 Q Was this a planned search or a planned excavation on
7 February 3?

8 A Yes, it was.

9 Q 2022?

10 A Yes, it was.

11 Q Who was there at the scene at 34 Fairview with you?

12 A It was Trooper DiCicco, Mike Proctor, and Trooper Evan
13 Brent.

14 Q And Trooper Evan --

15 A Brent.

16 Q Was Trooper Brent the photographer?

17 A Yes.

18 Q What type of tools did you bring when you went to 34
19 Fairview?

20 A We brought snow shovels, garden shovels. I brought
21 like an E-tool, military style E-tool.

22 Q Was there still some snow on the ground?

23 A There was, yes.

24 Q Did you and the members of the group begin to look for
25 any evidence?

1 A Yes, we did.

2 Q Were you looking on the street or did you move to more
3 on the grass?

4 MR. JACKSON: Objection, Your Honor.

5 THE COURT: Ask it differently.

6 Q What area were you focused on at this point?

7 A We were focused on the lawn portion of the property by
8 -- in the vicinity of the flagpole, the fire hydrant, and
9 along the edge of the asphalt.

10 Q Did you see a berm, an asphalt or berm separating the
11 concrete street and the yard?

12 A Yes.

13 Q Were you looking anywhere near the area of the berm?

14 A We did, yes.

15 Q Were you looking anywhere on the street?

16 A The street was plowed, but portions of the street still
17 had remnants of snow so we did check that area, but it was
18 much easier to identify anything because it was clear of
19 snow.

20 Q Where was most of your focus?

21 A On the lawn.

22 Q As you worked your way through the lawn, did you or
23 members of your team come across any items that you
24 believed to be evidence?

25 A Yes.

1 Q I'm going to ask you to produce some of that evidence
2 to us. Beginning with 535, did you find a number of pieces
3 of plastic?

4 A Yes.

5 Q Could you produce 535?

6 A Yes, sir.

7 Q Let me ask you a couple of questions before you open
8 that.

9 If somebody identified an object that they believed to
10 be evidence, what was the process in handling it?

11 A On this day, we identified evidence. The process would
12 have been documenting each item that was located with
13 photographs, then one of the members of the individuals
14 present would bag each item into a paper bag.

15 Q When they were bagged, would the bagging them use type
16 of protection like you're using?

17 A Absolutely, every time.

18 Q After the items were bagged, was the bag sealed?

19 A Eventually it was sealed, yes.

20 Q When you say eventually, what does that mean?

21 A Once it was -- all the items were inside, and it was
22 brought back to the office, it would be sealed, signed,
23 completely filled out with all the pertinent information on
24 the back.

25 Q Could you open that bag?

1 A Yes, sir.

2 Q And before you take the pieces out, I'm asking you to
3 look in. Do you recognize those pieces?

4 A Yes, I do.

5 Q What do you recognize them to be?

6 A I recognize them to be the items that we recovered from
7 the lawn area on the left side of 34 Fairview Road on
8 February 3, 2022, during the planned excavation of the
9 property.

10 Q And were they photographed before they were put in that
11 bag?

12 A They were.

13 MR. BRENNAN: Your Honor, may I approach before Trooper
14 Bukhenik --

15 THE COURT: Yes.

16 MR. BRENNAN: -- opens that bag or goes further.

17 THE COURT: Could you show Mr. Jackson?

18 MR. BRENNAN: I am sorry.

19 Q Handing you a series of photographs. I'd ask you to
20 take a look at them and see if you recognize them.

21 A I do recognize them.

22 Q And what is in those photographs?

23 A The photographs depict items collected from the lawn at
24 34 Fairview Road on February 3, 2022.

1 Q Do those particular photographs correspond with the
2 pieces of items that are in that bag?

3 A They do.

4 MR. BRENNAN: I would move this series of photographs
5 into evidence.

6 THE COURT: Any objection?

7 MR. JACKSON: No objection, Your Honor.

8 THE COURT: We'll mark them separately, please.

9 (Whereupon Exhibit No. 89, Photograph, was marked as an
10 exhibit.)

11 (Whereupon Exhibit No. 90, Photograph, was marked as an
12 exhibit.)

13 (Whereupon Exhibit No. 91, Photograph, was marked as an
14 exhibit.)

15 (Whereupon Exhibit No. 92, Photograph, was marked as an
16 exhibit.)

17 (Whereupon Exhibit No. 93, Photograph, was marked as an
18 exhibit.)

19 (Whereupon Exhibit No. 94, Photograph, was marked as an
20 exhibit.)

21 Q Those items, were they eventually sent for analysis to
22 a Massachusetts State Police lab?

23 A Yes, they were.

1 Q When the laboratory receives those items, are you
2 familiar whether they mark them with a label or a number
3 for identification?

4 MR. JACKSON: Objection, Your Honor.

5 THE COURT: I'm going to allow that.

6 A Yes, they mark each item individually.

7 Q do those items have markings on them reflected by an
8 item number?

9 A Yes, they are.

10 Q When you refer to a piece, will you refer to that item
11 number that is on any individual piece?

12 A Once it's labeled, it is identified by that individual
13 piece by that designated LIM.

14 Q So if there's any numbers written on any of those
15 pieces, was that written by you?

16 A No.

17 Q Would that have been written by somebody else after it
18 was sent?

19 A Yes, at the lab.

20 Q If we can begin, you can begin to take the pieces out
21 and show them to the jury.

22 A (Witness complies.)

23 Q And does that have a number on it or a tag?

24 A Yes, it does. This is item 22-021847-8 also
25 alphanumeric A.

1 MR. BRENNAN: May I approach, Your Honor?

2 THE COURT: Yes.

3 Q Thank you.

4 A These two are taped together.

5 Q When you found them, were they taped together?

6 A No, they're taped together by the lab.

7 Q There's also a canister labeled debris collection.

8 That number is 22-021847-8.1. This is 7-8G. This is 7-8N
9 as in November. There are also items too small to label
10 with a letter number. Those were put into a bag like this.
11 It almost looks like a stamp bag, wax stamp bag.

12 Q Are those all the items in that bag?

13 A Altogether, there are -- it does look like those are
14 all the items. Some of them are some inside the canister
15 that I pulled out.

16 MR. BRENNAN: Your Honor, I'd move those items into
17 evidence, please.

18 MR. JACKSON: No objection, Your Honor.

19 (Whereupon Exhibit No. 95, Evidence Bag, was marked as an
20 exhibit.)

21 Q Sir, you mentioned that there was a trooper there
22 photographing the evidence?

23 A Yes, sir.

1 Q Did the photographer take a photograph of the items in
2 the place when they were found, or were the items moved to
3 a different location before they were photographed?

4 A That day, every item was photographed where it was
5 found.

6 MR. BRENNAN: With the Court's permission I'd like to
7 show a number of exhibits to the jury?

8 THE COURT: Okay.

9 MR. BRENNAN: Starting with Exhibit 89, which is
10 P4907690.

11 Q Trooper, is that one of the items you found that
12 morning?

13 A Yes, it is.

14 Q Do you know where in relation to the fire hydrant or
15 the flagpole this item was recovered?

16 A It was in the general vicinity between the flagpole and
17 the fire hydrant. The area where we were excavating was
18 approximately 40 to 50 square feet in area.

19 THE COURT: Mr. Brennan, can that be expanded, please,
20 so jurors can see.

21 MR. BRENNAN: Thank you, Your Honor.

22 Q Is the item that you recovered on top of that leaf?

23 A Yes, it is.

24 Q Thank you. If I could next show Exhibit 90, which is
25 P4927692.

1 Before we close up, sir, is that the fire hydrant that
2 is at the corner of 34 Fairview Road?

3 A Yes, it is.

4 Q If we could close up, please, on that? Why is there a
5 ruler on the ground?

6 A The ruler is utilized to help put the item to scale by
7 the photographer from crime scene services. They utilize
8 these measuring rulers for scale of the item that you're
9 looking at. Sometimes it's hard to depict how large an
10 item is if there's no reference point.

11 Q If we could do a little bit further view to show the
12 fire hydrant.

13 Is that where this piece of evidence was found in that
14 exact location?

15 A Yes, sir.

16 Q Thank you. I would like next to show the jury Exhibit
17 91, 5157721.

18 Do you recognize that piece of evidence?

19 A Yes, sir.

20 Q Could you zoom in, please. And is that the same piece
21 of evidence that is depicted in Exhibit 89, P4907690,
22 different angle with a ruler?

23 A Yes, sir.

24 Q Thank you. If we could have Exhibit 92, please,
25 P4937694.

1 Could you zoom in, please.

2 Is that piece of evidence in the bag that you provided
3 is evidence, physical evidence?

4 A Yes, sir.

5 Q Was this found near the area of the other pieces?

6 A Yes, it was.

7 Q If we could show Exhibit 93, P5077711, please. Could
8 you zoom in, please.

9 How long did you spend that day looking, you and your
10 team, for pieces of evidence?

11 A It was probably 45 to an hour.

12 Q And finally, if I could show Exhibit 94, P5037707. And
13 if you could zoom in, please?

14 And this piece of evidence, where in relation to the
15 other pieces was this found?

16 A In same vicinity.

17 MR. BRENNAN: Thank you. If you take that down,
18 please.

19 Q When you were searching, did you find any item near the
20 street area?

21 A Yes, we did.

22 Q What did you find?

23 A A black plastic drinking straw.

24 Q Could you retrieve 536 for us, please.

25 A (Witness complies.)

1 MR. BRENNAN: I'd moved this piece of evidence into --

2 MR. JACKSON: No objection.

3 THE COURT: All right.

4 MR. BRENNAN: May I approach, Your Honor?

5 THE COURT: Yes, let's get it marked before.

6 MR. BRENNAN: I'm sorry, Your Honor?

7 THE COURT: Let's wait until it's marked.

8 (Whereupon Exhibit No. 97, Straw, was marked as an
9 exhibit.)

10 Q Showing you a photograph. Do you recognize that, sir?

11 A Yes, I do.

12 Q What's it a photograph of?

13 A It's a photograph of the black drinking straw that we
14 found at 34 Fairview on February 3, 2022.

15 Q What location did you find it in?

16 A It was close to the paved berm on the street.

17 Q And this is after the street was plowed?

18 A Yes, it was.

19 MR. BRENNAN: I'd this into evidence as an exhibit,
20 please.

21 THE COURT: Okay.

22 MR. JACKSON: No objection, Your Honor.

23 (Whereupon Exhibit No. 98, Photograph, was marked as an
24 exhibit.)

25 Q I'd ask you to open this and show it to the jury?

1 A Yes, sir. (Witness complies.)

2 MR. BRENNAN: With the Court's permission, I'd like to
3 show Exhibit 98 to the jury.

4 THE COURT: Okay.

5 MR. BRENNAN: And that is before P4887688.

6 Q Sir, if you look at that photograph.

7 MR. BRENNAN: And, Ms. Gilman, could you close ...

8 Q Do you recognize what's in that photograph?

9 A I do.

10 Q And what is that?

11 A That is the photograph of the straw we picked up from
12 the street in front of 34 Fairview Road.

13 MR. BRENNAN: Could we zoom out a little bit please,
14 Ms. Gilman?

15 Q Is that the area where you or your team found,
16 recovered that straw?

17 A That is exactly where it was found and recovered from.

18 Q That photograph doesn't show much of the grass area.
19 How far is that area from the fire hydrant?

20 A It's probably with my estimate 15 feet, maybe 20 from
21 the fire hydrant. Yeah, it's probably 15 to 20 feet if I
22 had to estimate.

23 Q Thank you. You mentioned that one of the items that you
24 went back to Fairview to try to find was a hat. Why were
25 you specifically looking for a hat?

1 A I had learned that Mr. O'Keefe was wearing a black
2 baseball hat baseball the night prior to the incident. So
3 with us recovering the clothing from the hospital and the
4 hat was not part of that pile of clothing, we needed to see
5 where the hat was. That could have been the lead. That
6 could be a clue of where Mr. O'Keefe was last prior to
7 being discovered.

8 Q Did you and the team ultimately find a hat that
9 morning?

10 A Yes.

11 Q Could I have you produce 537?

12 A Yes, sir.

13 MR. BRENNAN: Your Honor, I'd move that item into
14 evidence.

15 MR. JACKSON: No objection.

16 THE COURT: So this is going to be 96.

17 MR. BRENNAN: Thank you.

18 (Whereupon Exhibit No. 96, Evidence Bag Containing Baseball
19 Hat, was marked as an exhibit.)

20 MR. BRENNAN: With the Court's permission, Trooper
21 Bukhenik, could you open that and show it to the jury?

22 THE COURT: Yes.

23 A (Witness complies.)

24 Q Was that item photographed?

25 A Yes, it was.

1 Q And when that was taken from the scene, was the same
2 methods used of using gloves and putting it in a bag?

3 A Yes, it was.

4 Q When the item was photographed, was it photographed in
5 the place that it was found?

6 A Yes, it was.

7 MR. BRENNAN: May I approach, Your Honor?

8 THE COURT: Yes.

9 Q Sir, I'm showing you a series of photographs. Could
10 you take a look at the first one. Do you recognize that
11 photograph?

12 A I do.

13 Q What is it?

14 A It's the accumulated snow that was being excavated at
15 the scene where we located Mr. O'Keefe's hat.

16 Q And the second photo?

17 A The second photo is a close-up of Mr. O'Keefe's hat
18 flattened and frozen to the ground with portions of it that
19 were exposed underneath the piled up snow.

20 Q Third photo.

21 A Third photo is also of the hat once it's been removed,
22 and you can see the thin blue line, American flag on the
23 front of the hat and the Nike swoosh on the brim.

24 Q And the fourth photo, please?

1 A And the fourth photograph is also a close-up of the top
2 of the hat with a scale ruler next to it with grass showing
3 from underneath the hat.

4 Q I'm going to put these back in the order in which you
5 identified them.

6 MR. BRENNAN: Your Honor, I'd move these four
7 photographs into evidence.

8 THE COURT: Okay. Any objection?

9 MR. JACKSON: No objection, Your Honor.

10 THE COURT: Do you want them as four separate or A, B,
11 C.

12 MR. BRENNAN: A, B, C, will be fine. Thank you.

13 (Whereupon Exhibit No. 99A, Photograph, was marked as an
14 exhibit.)

15 (Whereupon Exhibit No. 99B, Photograph, was marked as an
16 exhibit.)

17 (Whereupon Exhibit No. 99C, Photograph, was marked as an
18 exhibit.)

19 (Whereupon Exhibit No. 99D, Photograph, was marked as an
20 exhibit.)

21 MR. BRENNAN: With the Court's permission, I'd like to
22 show these photographs to the jury.

23 THE COURT: Yes.

24 Q Beginning with 99A, P5267733, please. Could you close
25 up just a little bit, please?

1 Sir, can you describe what you see here?

2 A Yes, that's the excavation track by one of the members
3 at the scene. You can see the hat frozen flat to the
4 bottom or on the bottom of the snow right on top of the
5 grass. It was under approximately a foot and a half of
6 snow that had accumulated in the area.

7 Q If you could next show 99B, P5277735.

8 A This is again the close-up of the frozen flat hat to
9 the grass at 34 Fairview Road.

10 Q Next is 99C, P5297739, please?

11 A Once pulled out and flipped over, again, this is the
12 same hat belonging to Mr. O'Keefe that was discovered
13 frozen flat to the grass at the scene.

14 MR. BRENNAN: Thank you. If you could take that down,
15 please.

16 Q Did you search the entire front lawn at that time?

17 A No, we did not.

18 Q And we can see from those photographs, there's still
19 snow in that yard?

20 A Yes.

21 Q As you continued your investigation, did you continue
22 to go back to Fairview over time?

23 A Yes. Based on the amount of snow still present and the
24 fact that we were finding pieces of broken taillight and
25 glass at the scene and items that we did not expect to

1 find, like a cocktail glass -- a straw, we -- I directed my
2 members to go by the scene every day. As the temperatures
3 rose, snow would expose more evidence on the lawn and with
4 the hopes of finding each and every item that was present.

5 Q By February 4, the next day, 2022, did you receive a
6 call?

7 A Yes, I did.

8 Q Not what was said, but who was that call from?

9 A I believe it was --

10 Q I don't want you to guess if you don't know. Was the
11 person a member of any group?

12 A Yes.

13 Q From what group?

14 A It was the Canton police.

15 Q As a result of receiving a call from the Canton police
16 or someone from the Canton police on February 4, 2022, did
17 you go anywhere?

18 A I was already in route to 34 Fairview Road to conduct a
19 directed check of the area.

20 Q When you say a directed check, did you drive by every
21 day on your way to work?

22 A I told my members on every day to work and home to make
23 sure someone's checking the lawn to make sure that any
24 evidence that exposes itself through the melting snow would
25 be identified and collected.

1 Q As you were on your way there, you received a call from
2 someone from the Canton police?

3 A Yes.

4 Q Did you arrive at 34 Fairview on February 4, 2022?

5 A I did.

6 Q When you got there, did you see any more items?

7 A Yes, I did.

8 Q How many?

9 A One item. A larger in size red taillight piece had
10 revealed itself, and it was collected.

11 Q Could you produce 710, please?

12 A Yes, sir.

13 Q Is that 710, sir?

14 A Seven dash ten, yes, sir.

15 MR. BRENNAN: I'd move that item into evidence, please?

16 MR. JACKSON: No objection, Your Honor.

17 (Whereupon Exhibit No. 100, Evidence Bag with Red Taillight
18 Piece, was entered as an exhibit.).

19 MR. BRENNAN: With the Court's permission, could
20 Trooper Bukhenik open the item and show it to the jury?

21 THE COURT: Yes.

22 A (Witness complies.)

23 Q Thank you. Did anybody photograph that item where it
24 was found?

25 A Yes, there was a photograph taken.

1 Q Did you take the photograph?

2 A No, I did not.

3 Q How did you receive the photograph?

4 A It was attached to the Canton police reports that were
5 provided. Canton police documented that item in place.

6 MR. BRENNAN: May I approach?

7 THE COURT: Yes.

8 Q I'm showing you two photographs. The first page, do
9 you recognize that item?

10 A Yes, I do.

11 Q What do you recognize that to be?

12 A That was the item I collected on February 4, at 34
13 Fairview Road, which I was just showing to the jury.

14 Q And the second photograph?

15 A The second photograph is a zoomed out general vicinity
16 photograph of the same item from 34 Fairview Road, the lawn
17 area approximately 7 feet from the roadway.

18 MR. BRENNAN: Your Honor, I'd like to move these into
19 evidence A and B, with the Court's permission.

20 THE COURT: Any objection, Mr. Jackson?

21 MR. JACKSON: There's no objection, Your Honor.

22 (Whereupon Exhibit No. 101A, Photograph, was marked as an
23 exhibit.)

24 (Whereupon Exhibit No. 101B, Photograph, was marked as an
25 exhibit.)

1 MR. BRENNAN: With the Court's permission, I'd like to
2 show those photographs to the jury.

3 THE COURT: Yes.

4 MR. BRENNAN: P46, please.

5 Q Is that a photograph of the item you just showed the
6 jury, sir?

7 A Yes, it is.

8 Q And where was it in relation to the other pieces that
9 you had found on February 3?

10 A It was further to the right. If you're looking at the
11 property, if you have the fire hydrant on your left, it was
12 further to the right on the right bank of the snow that was
13 melting on the lawn.

14 Q Is that on the lawn or on the pavement?

15 A That's on the lawn.

16 MR. BRENNAN: And could we show the close-up please,
17 P47. Thank you. You can take it down, please.

18 Q When you recovered those items, did you go through the
19 same protocol of gloves and bags?

20 A Absolutely.

21 Q Did you return to 34 Fairview on February 10?

22 A Yes, I did.

23 Q Was the snow in a different state then when you last
24 left it on February 3?

25 A Yes, it had receded, significantly.

1 Q When you went back on February 10, were you with
2 anybody?

3 A I believe I was with another trooper.

4 Q Do you know who that was?

5 A I don't remember. I'd have to refresh my memory.

6 Q Was it Michael Proctor?

7 A It might have been, yes.

8 Q Could you produce 7-11, please?

9 A Yes, sir.

10 Q Does that bag contain some of the items you found on
11 February 10, at Fairview Road?

12 A Yes, it does.

13 MR. BRENNAN: I'd move that into evidence, please.

14 MR. JACKSON: No objection, Your Honor.

15 (Whereupon Exhibit No. 102, Evidence Bag with Items, was
16 marked as an exhibit.)

17 Q Can you describe generally the size of the items in
18 that bag?

19 A Can I open it?

20 Q Please.

21 A (Witness complies.) Generally speaking, there's six
22 plastic pieces of clear and red and black items. They are
23 in size approximately to like a half dollar.

1 Q Without going through every one of them, could you just
2 pull out one red and one clear to show the jury as a
3 representative sample of what's in the bag?

4 A (Witness complies.)

5 Q In total, there's six items in that bag?

6 A In total, there are six items in the bag.

7 Q When you retrieved those items, did you use the same
8 protocol of gloves and a bag?

9 A Yes.

10 Q Did you photograph these items when you took them?

11 A Not on this day, no.

12 Q Why not?

13 A We had been to the scene so many times, it was the same
14 general vicinity, and we just made a decision to have crime
15 scene come out to photograph these six pieces.

16 Q Were they in any remarkably different position than the
17 other pieces, anything that stood out or were they -- let me
18 rephrase that.

19 Where were they, generally, in relation to the other
20 pieces that you had found?

21 A They were all in the general area where the other
22 pieces had been located. It was on the left side of the
23 lawn, but near the flagpole between the road and the home.

24 Q Was there another group of items that you found that
25 day that you put in a separate bag?

1 A Yes.

2 Q Could you provide us?

3 MR. BRENNAN: May I approach? I'm not sure if I marked
4 this one for evidence, Your Honor.

5 THE COURT: Yes.

6 Q Would you produce 7-12, please?

7 A Yes, sir.

8 MR. BRENNAN: I'd move this into evidence, please.

9 MR. JACKSON: No objection, Your Honor.

10 THE COURT: Okay.

11 (Whereupon Exhibit No. 103, Evidence Bag with Fragments,
12 was marked as an exhibit.)

13 MR. BRENNAN: With the Court's permission, could
14 Trooper Bukhenik open the bag?

15 THE COURT: Yes.

16 Q In that bag, are there different types of items, the
17 items you showed us before were -- appeared to be plastic?

18 A Yes, these items are packaged in wax paper. There's 14
19 pieces in total, and these items contain glass and plastic
20 fragments, some of which are also within like a cylindrical
21 tin container that you saw earlier.

22 Q Could you show us some of the glass pieces, please?

23 A Yes, sir. I'm going to have to open the wax bag.

24 Q Please. Could you stand so the people in the back can
25 see?

1 A (Witness complies.)

2 Q Thank you.

3 Were there a number of different items inside -- that
4 are inside that bag that you found that day?

5 A Yes, there are a number of glass pieces taped and
6 labeled for identification at the lab, and mechanically
7 pieced together to form this one piece in my right hand.
8 And this is one solid thick piece of curved glass in my
9 left hand.

10 Q And again, is this February 10, 2022?

11 A Yes, it is.

12 Q For the last evidence bag you said you did not
13 photograph where they were found, did photograph where
14 these pieces were found?

15 A No, I did not, no.

16 Q Different reason than the last bag?

17 A No.

18 Q Do you have a memory of where these items were found in
19 relation to the items in the last bag?

20 A Yes, they were all in the general vicinity where all
21 the other taillight pieces were located as well as the
22 baseball hat.

23 Q How much snow was on the ground at this point?

24 A Most of the snow had melted. There might have been
25 some areas that was still present because of the excavation

1 that took place. So very little to no snow was present at
2 this point in time.

3 MR. BRENNAN: May I approach, Your Honor?

4 THE COURT: Yes.

5 Q Is that all the pieces that you have that you were part
6 of finding or retrieving from 34 Fairview Road related to
7 plastic or glass discovered?

8 A Yes, sir.

9 Q Did you continue to work on this case?

10 A Yes, I did.

11 Q At some point, did you receive video from a number of
12 different locations?

13 A Yes.

14 Q Where were you part of retrieving or receiving video
15 from?

16 A I was part of retrieving or receiving video from CF
17 McCarthy's, the Waterfall. There was also video that was
18 collected from other agencies and entities.

19 Q Did you seek a search warrant or video evidence from a
20 company called Ring?

21 A Yes.

22 Q For what location?

23 A For the Meadows Ave. location, Mr. John O'Keefe's
24 residence.

1 Q Did you see receive a video from Ring directly from
2 Ring?

3 A Ring sent over files with Ring video.

4 Q Was that by a link by a computer?

5 A I'm not sure how it came in. It was via the Internet.

6 Q Did you view all of the files that were produced by
7 Ring?

8 A At some point, I reviewed all the files, yes.

9 Q Was that pursuant to a subpoena?

10 A I'm sorry?

11 Q Were the Ring videos produced pursuant to a subpoena?

12 A Through the search, yes, we requested it through the
13 search warrant. That's the way these providers, service
14 providers, respond to the court legal service.

15 Q Were you aware that cruisers or the cruisers at the
16 Canton Police Department had dash cam video?

17 A Yes, I am aware of it.

18 Q Did you obtain and review video?

19 A Yes, I did.

20 Q Have you seen any other video Canton Police Department?

21 A Yes, I did.

22 Q At some point, were you asked if you would consent to
23 provide your DNA?

24 A Yes, I was, yes.

25 Q Is that uncommon in investigations?

1 A It's not -- it's not common, but situations do arise
2 where you're asked to do that, so we -- it's not the first
3 time that's happened, but it has happened before where a
4 law enforcement individual officer has to provide DNA and
5 they consent.

6 Q Did you?

7 A Yes, I did.

8 Q Did you review any other materials in this case? Did
9 you review any reports?

10 A I did review reports, yes.

11 Q Did you write reports in this case?

12 A Yes, I did.

13 Q Now, I want to ask you about Michael Proctor. You told
14 us that you were working on this investigation with him?

15 A Yes, I was.

16 Q Are you still working on this investigation with him?

17 A No, I am not.

18 Q You were Michael Proctor's supervisor?

19 A Yes, I was.

20 Q When you worked for the state police, do you have a
21 personal phone, and a phone that is provided to you by the
22 state police?

23 A Yes.

24 Q The state police phone, is that a work phone?

25 A Yes, it is.

1 Q What type of information do you receive on that phone?

2 A You can receive communications via email, text message,
3 cell phone tower, voice communications.

4 Q Do officers communicate with each other at times on
5 those work phones?

6 A Yes, they do.

7 Q And during that time, did you have a work phone that
8 you were using for communications?

9 A Yes, I did.

10 Q At some point, did you receive or were you placed on an
11 email chain that included Michael Proctor and others?

12 A I believe it was a text chain.

13 Q I'm sorry, a text chain.

14 A Yes.

15 Q Were you included on a text chain involving Michael
16 Proctor and others?

17 A Yes, I was.

18 Q Did you receive a text or a text chain from Michael
19 Proctor and other people?

20 A Yes, I did.

21 Q And when you received a text, do you remember where you
22 were when you received the text chain?

23 A This specific one you're referring to; I was at the
24 Logan Airport working a traffic detail.

1 Q When you received that text or text chain, did you
2 respond?

3 A I acknowledged the text. I did not respond through
4 with verbiage.

5 Q And during that text chain, did you look at the entire
6 text chain?

7 A No, the text message came through on my Apple watch.
8 As I was controlling traffic, I glanced at it, took part of
9 the information that came through, and acknowledged it with
10 a thumbs-up emoji indicating that I read it.

11 Q At some point, did you learn everything that was on
12 that text chain?

13 A Yes.

14 Q And as a result of that text chain, was there an
15 investigation?

16 A There was.

17 Q And during that investigation, you were Michael
18 Proctor's supervisor.

19 A I was.

20 Q After the investigation was done, did the state police
21 make any finding against you for that text chain?

22 A Yes, they were two sustained findings as a result of
23 that investigation.

24 Q Did you initiate that text chain?

25 A No, I don't believe so.

1 Q You did react with a thumbs-up?

2 A I acknowledged the text message that he sent or a
3 portion of the information that came through on my watch.

4 Q And the two sustained findings against you, were one of
5 them for a failure to adequately supervise?

6 A Yes.

7 Q And the other, was it regarding a routine or regular
8 review that it didn't consider that text chain --

9 MR. JACKSON: Objection, Your Honor.

10 MR. BRENNAN: I'll rephrase.

11 THE COURT: Okay.

12 Q That second sustained finding, was it regarding a
13 review of the performance level of Mr. Proctor?

14 A That's correct.

15 MR. JACKSON: Objection.

16 THE COURT: Sustained as to form.

17 Q What there a second sustained finding?

18 A Yes, there was.

19 Q Did it relate to the review process of a subordinate?

20 MR. JACKSON: Objection.

21 THE COURT: Sustained as to form.

22 Q What was that second sustained finding about?

23 A The accuracy of the review of the quarterly performance
24 evaluation.

1 Q You said quarterly. How often would you have to review
2 subordinates?

3 A Every 90 days.

4 Q Was there any other sustained finding against you?

5 A No.

6 Q Was there punishment in light of those two sustained
7 findings against you?

8 A There was.

9 Q And what was that punishment?

10 A I lost five vacation days.

11 Q Do you presently work in the homicide division of the
12 Norfolk County District Attorney's Office?

13 A I do.

14 Q Are you currently a sergeant?

15 A I am.

16 Q Have you ever reviewed that entire chain that was at
17 issue?

18 A Only through the documents provided for me during the
19 internal investigation.

20 MR. BRENNAN: May I approach, Your Honor?

21 THE COURT: Yes.

22 MR. BRENNAN: May I stand here?

23 THE COURT: Sure.

24 Q Sir, I'm going to ask you to take a look at that
25 document, and if you turn the page, does it begin through

1 -- one more page, please. Does it begin to reflect the
2 email chain?

3 A Yes, it does.

4 Q Do you remember this email chain?

5 A I remember seeing it when I reviewed it. I don't
6 remember the intricate details of these messages.

7 Q Do you remember that photograph?

8 A I don't.

9 Q Okay. Could you turn the page. Is there text?

10 A Yes, there is.

11 Q Without citing the phone numbers, I'd like would you to
12 cite the author of the text, and I'd like you to read the
13 texts to the jury.

14 A Do you want me to date and time or no?

15 Q Sure.

16 A August 17, 2022, 9:44 p.m., 25 seconds. "Funny. I am
17 going through his retarded client's phone."

18 Q I'd like you to read all of them, please.

19 A Next one, "No nudes so far. I hate that man. I truly
20 hate him."

21 Q And can you give the author for each comment? And can
22 you start again because I want us to understand --

23 A I'm sorry, can you repeat that?

24 Q The author, whoever makes the comment, I'd like to have
25 the name of the author.

1 A I'm sorry. This document does not identify who the
2 author is, sir.

3 MR. BRENNAN: May I?

4 THE COURT: Yes.

5 Q It identifies this as your phone?

6 A That is, yes.

7 Q But each comment doesn't identify who sent it?

8 A No, it does not. I assume it's an extraction from one
9 device, but ...

10 Q I see. If you've made any of the comments yourself,
11 would you tell us?

12 A If I made those comments?

13 Q No. If you make any of them in here as you read them,
14 will you point out --

15 A Absolutely. Absolutely, yes.

16 Q Please. Okay. And if you don't know who made the
17 comment, can you just identify that for us as you read it
18 so we know.

19 A Okay. Do you want me to continue to the next page?

20 Q Why don't we start over because I should have been more
21 clearer in my directions. If you begin again.

22 A So in the beginning it says, "Funny, I am going through
23 his retarded client's phone." Is that your comment?

24 A No, it is not.

25 Q Okay. Next.

1 A It appears to be the same person because of the way
2 that the extraction happens, and it says, "No nudes so
3 far." Again, I believe it's the same person because all of
4 these identified as sent. It says, "I hate that man. I
5 truly hate him."

6 Q Do you have any belief that's Michael Proctor who was
7 writing these?

8 A Yes, I believe that it is.

9 Q Next please.

10 A There's a blank page and that's the end.

11 Q Did you say you were suspended five days or lost five
12 days' vacation?

13 A Last five days of a vacation.

14 Q And have you continued on your cases?

15 A Yes, I have.

16 Q I want to go back to the evidence that you reviewed in
17 this case.

18 A Okay.

19 Q Did you get to look at the Ring video for John
20 O'Keefe's home at Meadows?

21 A Yes, I did.

22 Q Did you review the video over a period of time over
23 January 28, and January 29?

24 A I did

25 Q What were you looking for?

1 A We were looking for activity to get a timeline. During
2 investigations, different sources provide you information
3 that can develop into leads. It all also helps verify
4 witness statements. It helps verify informations coming
5 in. We always trust but we always verify the information
6 that we take in from individuals who we do not know. So
7 although it could be a cooperating witness, you still have
8 to verify that their information is accurate - not that
9 they might be intentionally misleading you, but three
10 people can watch the same event and observe it differently.
11 So it's good to talk to individuals and pick up on
12 different facts that they remember giving you a whole
13 picture of what took place.

14 Q Did you review Ring video from January 28, 2022 and
15 January 29, 2022?

16 A I did.

17 MR. BRENNAN: With the Court's permission, I'd like to
18 show a number of segments of the video from January 28,
19 2022?

20 THE COURT: Okay. The one that's already in evidence.

21 MR. BRENNAN: It is. It's Exhibit 6.

22 THE COURT: Okay.

23 Q When you reviewed the video from the Ring that Ring
24 provided for Mr. O'Keefe's home on Meadows on January 28,

1 2022, did you review it from the morning time at about
2 7:18:55 throughout the evening?

3 A On the 28th?

4 Q Yes.

5 A Yes.

6 MR. BRENNAN: Could I have video 119? Thank you.

7 (Whereupon, a video was played.)

8 Q After that video, did you have an opportunity to look
9 at video at about 5:05 p.m.?

10 A I'm sorry there was noise coming from the bag over
11 there. I apologize.

12 Q Not a problem.

13 A Can you repeat that question?

14 Q Sure. On January 28, 2022, did you have a chance to
15 look at video from the Ring at about 5:05 p.m.?

16 A Yes.

17 MR. BRENNAN: Could I have video 145, please?

18 (Video played.)

19 MR. BRENNAN: Thank you, Ms. Gilman.

20 Q Did you have -- there's more video. Did you have a
21 chance to look at live video from a little later that
22 evening, 7:36 p.m.?

23 A Yes, I did.

24 Q If we could have video 149, please.

25 (Video played.)

1 Q In your investigation, did you learn that the
2 defendant's phone connected to Mr. O'Keefe's Wi-Fi at his
3 house on January 29, 2022, at 12:36:39?

4 A Yes.

5 Q Did you look for any Ring video for that time, 12:36?

6 A Yes.

7 Q Was there any Ring video on the production that was
8 sent to you by Ring for the time period of 12 -- around
9 12:36:39 on the evening of January 29, 2022?

10 A There was no Ring video for that time frame.

11 Q Did you look for Ring video around 5:07:58 that morning
12 on January 29, 2022?

13 A Yes, I did.

14 Q Could we see video 153, please.

15 (Video played.)

16 Q Thank you. Did you review that video from 5:07:58?

17 A Yes.

18 Q Did you later review video of 5:46:29?

19 A Yes.

20 Q Could we play number 154, please?

21 (Video played.)

22 Q Could you stop that, please? Do you recognize what's
23 in that video?

24 A Yes, I do.

25 Q What is that?

1 A That is top left corner is Mr. John O'Keefe's vehicle.
2 Middle left side of the screen is a black Lexus SUV
3 registered to Karen Read with the license plate based on
4 that registration, and then on the right side, I believe
5 that's Ms. Kerry Roberts' vehicle.

6 Q Did you see the people enter the house?

7 A Yes.

8 Q Did you look for further video after the people arrived
9 at 5:26:29?

10 A Yes.

11 Q Was there any video of those three people leaving?

12 A No, there was not.

13 Q Was there later video at 7:05:16 a.m.?

14 A There was, yes.

15 MR. BRENNAN: Ms. Gilman, could we see video 155,
16 please.

17 (Video played.)

18 Q Thank you. Did you later see video at 8:23 a.m.?

19 A Yes.

20 Q Could we have exhibit or video 159, please?

21 (Video played.)

22 Q Thank you. Did you later see video at 10:36:28?

23 A Yes, I did.

24 Q Could we have video 161, please.

25 (Video played.)

1 Q Could you stop that, please. Do you know who's in that
2 video?

3 A I believe it's Mr. Paul O'Keefe and Mrs. O'Keefe.

4 Q Could you please play?

5 (Video played.)

6 Q Okay. Thank you.

7 Did you later look at video of 12:04?

8 A Yes.

9 Q And could we please play the one minute segment of
10 video 165?

11 (Video played.)

12 Q Could you stop that video? Do you know who that is?

13 A I believe that's the defendant.

14 Q Continue, please.

15 (Video played.)

16 Q Could you stop that? Do you know who exited the car?

17 A I believe that's Mr. Read.

18 Q Continue, please.

19 (Video played.)

20 Q Thank you. Did you continue to watch the video from
21 the driveway?

22 A Yes.

23 Q During that time period?

24 A Yes.

1 Q Did you see anybody else get out of that car that was
2 in the back?

3 A Yes.

4 Q And who did you believe you saw getting out of the car?

5 A I believe it was the defendant's brother and possibly
6 his companion. I don't know who that is.

7 Q Did you have a chance to watch the video?

8 A Yes, I did.

9 Q At 12:35 p.m., could you play video 174, please?

10 (Video played.)

11 Q Thank you. Did you look at video from 12:40?

12 A Yes, I did.

13 Q Could we have video 171?

14 (Video played.)

15 Q And 175.

16 (Video played.)

17 Q Did you look for further video to see if there was any
18 video for the time around when the Lexus was taken from
19 Meadows that morning?

20 A Yes.

21 Q Was there any video that was produced that shows the
22 time around before and the time that Lexus was removed from
23 that driveway that morning?

24 A There was no video, no.

1 Q When you were at the sally point, did you get an
2 opportunity to look at the Lexus's rear taillight area?

3 A Yes, I did.

4 Q Did you get to make observations about the damage that
5 you viewed that morning?

6 A Yes, I was.

7 Q Did you later have a chance to see, after the snow
8 melted, what that damage looked like?

9 A Yes, I did.

10 Q Can I have Exhibit 54, please?

11 Do you recognize what's in that photo?

12 A Yes, I do.

13 Q And what do you recognize it to be?

14 A That is the defendant's SUV that was seized and later
15 processed. It's currently in the Canton sally port I
16 believe.

17 Q Could we close up on the right rear taillight, please.

18 Do you notice anything about that right rear taillight?

19 A Yes.

20 Q And what did you notice?

21 A It's missing a large red portion of the lens.

22 Q Is that consistent or inconsistent with the damage that
23 you saw when you first saw that car?

24 A That is 100 percent consistent.

1 Q Did you get an opportunity to see any video or
2 photographs of that right rear taillight before the car was
3 placed in the sally port video?

4 A Yes.

5 Q Did you view the Ring video from Mr. O'Keefe's Meadows
6 Ave. address?

7 A Yes.

8 Q If we could go back to video 153 from Exhibit 6. If
9 you could play this, please? Did you have a chance to
10 review this video?

11 A Yes.

12 Q Is this at 5:07:58 a.m. on January 29, 2022?

13 A Yes, it is.

14 (Video played.)

15 Q Could you stop, please?

16 Do you notice anything about the right rear taillight
17 in that video?

18 A Yes.

19 Q What did you notice?

20 A It's showing white and is missing the red taillight
21 cover lens.

22 Q You could zoom back out for a second, please? Could
23 you continue and I'm going to ask you to stop for a second.

24 (Video played.)

1 Q Stop, please. Did you notice anything about that still
2 of that video?

3 A Yes, it's consistent with its appearance of missing
4 that red taillight lens.

5 Q If you could play the vehicle leaving the driveway,
6 please.

7 (Video played.)

8 Q Thank you.

9 MR. BRENNAN: May I approach, Your Honor?

10 THE COURT: Yes.

11 Q Handing you a document, sir. Do you recognize what's
12 in that?

13 A Yes, I do.

14 Q What is it?

15 A It's a still frame from the Ring footage taken of the
16 video we just watched of the Lexus SUV leaving and the red
17 -- large red portion of the rear taillight is missing.

18 MR. BRENNAN: I'd like to move this into evidence.

19 THE COURT: Okay. Any objection, Mr. Jackson?

20 MR. JACKSON: No, Your Honor.

21 (Whereupon Exhibit No. 104, Photograph, was marked as an
22 exhibit.)

23 MR. BRENNAN: If I may correct the record, the Ring
24 video Exhibits are from 12A not Exhibit 6.

25 THE COURT: Okay.

1 Q At some point later that afternoon you shared -- or
2 midafternoon you went to Dighton, but before that, did you
3 review any other evidence of the damage to the taillight
4 before you and Mr. Proctor even got to the Dighton address?

5 A Yes.

6 Q Could I have Exhibit 10, please?

7 Did you have a chance to view still photos from the
8 wellness check that was conducted by the Canton Police
9 Department and videos on the dash cam?

10 A Yes, I did.

11 Q Did you review this photograph?

12 A Yes, I did.

13 Q And can we show a close-up on Exhibit 11.

14 Did you have a chance to view the dash cam from this
15 footage at 8:26:31 a.m. relative to the damage to that
16 right rear taillight?

17 A Yes, I did.

18 Q You shared with us -- you can take that down, please.

19 You shared with us that after this time, somewhere
20 around 3:15, you went to Dighton?

21 A Yes.

22 Q And you shared your observations when you got out of
23 your truck and walked towards the car?

24 A Yes.

1 Q Is there any difference between the damages that you've
2 seen in the video to the photograph from what you saw that
3 morning?

4 A The only difference is the amount of snow that's
5 impacted on the vehicle. The damage is consistent. The
6 large red lens is missing in every single piece of -- every
7 single image that I saw.

8 Q You mentioned that there was a tow of that car in
9 Dighton that you were there for?

10 A Yes.

11 Q Were you aware that video footage was provided to us on
12 that tow?

13 A I was made aware, yes.

14 MR. BRENNAN: I'd like to enter into evidence a video
15 from alarm.com.

16 THE COURT: Okay.

17 MR. JACKSON: No objection, Your Honor.

18 THE COURT: Thank you.

19 (Whereupon Exhibit No. 105, Video from Alarm.com, was
20 marked as an exhibit.)

21 Q Did you view the video that was provided to us relative
22 to the right rear taillight?

23 A From alarm.com?

24 Q Yes.

25 A Yes.

1 MR. BRENNAN: With The Court's permission, I'd like to
2 play that for the jury.

3 THE COURT: Okay.

4 MR. BRENNAN: May I have a moment, Your Honor?

5 THE COURT: Yes.

6 MR. BRENNAN: This is video one, Your Honor.

7 THE COURT: Okay.

8 (Video played.)

9 MR. BRENNAN: Could you play video two, please?

10 (Video played.)

11 MR. BRENNAN: Could you stop, please?

12 Q Do you notice anything about the color of the right
13 rear taillight?

14 A Yes, it was white.

15 MR. BRENNAN: Could you continue, please?

16 (Video played.)

17 MR. BRENNAN: Thank you. Thank you. You can put the
18 lights back on, please.

19 Q Sir, did you have an opportunity to review video from
20 CF McCarthy's on the evening of January 28, 2022?

21 A Yes, I did.

22 Q Did you have an opportunity to review videos from the
23 Waterfall bar on January 28, 2002?

24 A Yes, I did.

25 Q That was taking us into January 29, 2022?

1 A Yes.

2 Q Did you review all the entire relevant time periods?

3 A Yes, I did.

4 Q When you reviewed those videos, were there a number of
5 different things you were looking for?

6 A Yes, there was.

7 Q Can you share with the jury what you were looking for?

8 A We were looking for consistency in statements that were
9 already received through interviews. We were looking for
10 description of clothing individuals were wearing at the bar
11 at those locations. We were looking for any evidence of
12 aggressive behavior, any sort of information we could learn
13 to help us with the investigation. We were also looking to
14 see and document how much alcohol consumption was on the
15 recordings.

16 Q When you went through the video, did you happen to have
17 an opportunity to copy and clip portions of relevant time
18 frames regarding intoxicating -- alcohol ingestion?

19 A Yes.

20 Q Did you put all those videos together in sequence to
21 show through the course of the night times when you could
22 identify alcohol ingestion?

23 A Yes, I did.

24 Q Did you put that into a video format for a
25 presentation?

1 A Yes, we did.

2 MR. BRENNAN: Your Honor, the presentation may take a
3 few minutes.

4 THE COURT: All right. Why don't I see counsel at
5 sidebar for just a second, please.

6 Jurors, feel free to stand up and stretch.

7 (Sidebar commences:

8 MR. BRENNAN: I'm sorry. When I saw the clock, I
9 thought it said 12:59, not 12:39. I was at a bad angle.

10 THE COURT: That's okay. So how much longer do you
11 have do you think?

12 MR. BRENNAN: I'm going to show this presentation and
13 then I'll be done, and I think he can get through it
14 probably in 15 minutes, 20 minutes.

15 THE COURT: How long do you think -- do you think?
16 Will it get you to the end of the day or --

17 MR. JACKSON: I think it's going to be probably pretty
18 close.

19 MR. BRENNAN: Yeah.

20 MR. JACKSON: At least a couple of hours.

21 THE COURT: All right. Before we break, I do have to
22 break at 4:00 today.

23 MR. BRENNAN: We do.

24 THE COURT: Before we break, we have to figure out
25 about the child testifying tomorrow. If it's a good place

1 to break without putting anyone on. Is the nephew or
2 niece?

3 MS. LAUGHLIN: Niece.

4 THE COURT: Okay. If we can figure it out. I issued an
5 order today consistent with last year's order about the
6 media.

7 MR. BRENNAN: Thank you very much.

8 THE COURT: All right. So we'll figure that out at some
9 point.

10 MS. LAUGHLIN: Your Honor, may we release the witnesses
11 that we have here after -- that we're --

12 THE COURT: There's no way you're going to be just an
13 hour, right?

14 MR. JACKSON: No, and I think, honestly, I'm going to
15 go into tomorrow.

16 THE COURT: All right. Yes. That's why I wanted to
17 know this before we broke for lunch.

18 MS. LAUGHLIN: Thank you.

19 THE COURT: All right. So go ahead and do this. If we
20 have to go over -- past 1:00 --

21 MR. BRENNAN: Okay.

22 THE COURT: -- for you to finish.

23 end of sidebar.)

24 MR. BRENNAN: May I approach?

25 THE COURT: Yes.

1 Q Sir, I'm handing you a CD. Do you recognize that?

2 A Yes, I do.

3 Q And what is it?

4 A It is the PowerPoint presentation of the timeline from
5 CF McCarthy's and Waterfall from January 28, 2022.

6 MR. BRENNAN: I'd move this into evidence as an
7 exhibit.

8 THE COURT: Mr. Jackson, there's no objection.

9 MR. JACKSON: There's no objection, Your Honor. I
10 apologize.

11 THE COURT: Okay.

12 (Whereupon Exhibit No. 106, CD, was marked as an exhibit.)

13 Q Sir, handing you four photographs. Do you recognize
14 what they are?

15 A Yes, I do.

16 Q What are they?

17 A They're still frames from CF McCarthy's on January 28,
18 2022, at 9:26:01 as time stamped on the footage cam.

19 Q Are there four photographs?

20 A There are.

21 MR. BRENNAN: Your Honor, I'd move these four
22 photographs into evidence.

23 THE COURT: Okay.

24 MR. JACKSON: No objection, Your Honor.

1 (Whereupon Exhibit No. 108C, Photograph, was marked as an
2 exhibit.)

3 (Whereupon Exhibit No. 108D, Photograph, was marked as an
4 exhibit.)

5 MR. BRENNAN: Thank you. Your Honor, can I proceed with
6 the PowerPoint presentation.

7 THE COURT: Yes.

8 Q Trooper, I may stop you at a couple of points.

9 A Yes, sir.

10 Q Could you explain to us what this is?

11 A Yes, from left to right it is chronological events that
12 took place at CF McCarthy's. This is surveillance video
13 from one of their cameras within the bar. It should be
14 noted that video is time stamped 12 minutes behind actual
15 time. So when it says 9:03 -- when it is 9:03, the frame
16 will be time stamped 2051, which is 8:51. So that's the
17 time discrepancy which is consistent throughout the
18 surveillance footage.

19 Q So the times that is displayed with those arrows, is
20 that the accurate time?

21 A The arrows are the accurate time and the time stamp 12
22 minutes behind actual time.

23 Q In these videos, are you identifying drinks that were
24 received and drink -- and had been consumed by the
25 defendant?

1 A Yes. So the first video, as it is labeled, it's the
2 defendant arriving. The next one will be the ordering of
3 the drink and receiving the actual cocktail.

4 Q Okay. Let's start at the first video at 9:02, please.
5 (Video played.)

6 Q Can you stop it there? Do you recognize who's in that
7 video?

8 A Yes.

9 Q From left to right of people that you recognize and
10 identify clothing they might be wearing?

11 A From left to right, it'll be Mr. John O'Keefe wearing
12 the gray sweatshirt that was displayed earlier, and then
13 the defendant who he is trying to embrace with one arm
14 there. I do not know who the other individuals are in the
15 shot.

16 Q Thank you. Could you continue, please.
17 (Video played.)

18 Q If we could proceed to 9:10 p.m.
19 (Video played.)

20 Q What did that show, sir?

21 A It showed the defendant receiving her first tall vase
22 cylindrical style cocktail glass with a lime in it and a
23 straw to go along with it.

24 Q Nine twenty-seven, please.
25 (Video played.)

1 Q And what was depicted in that video that you saw?

2 A In that video, we see the defendant get handed her
3 second cylindrical tall style cocktail glass while she
4 finished the first one and then picked up the second one.

5 Q When you've made a relevant observation in the video,
6 please interject and stop so you can point out for us what
7 you've seen. A Absolutely, sir.

8 Q Next please, 9:32.

9 (Video played.)

10 A Here the defendant is handed a shot --

11 Q Stop, please.

12 (Video played.)

13 A Right there.

14 Q I think we'll just have to play it, and you'll have to
15 speak as you're watching it. Okay.

16 MR. BRENNAN: Sorry, Ms. Gilman.

17 (Video played.)

18 A She's handed a shot by the bartender on the left side
19 of the screen. She picks it up and puts it into her second
20 cocktail glass making a third beverage of alcohol content
21 that she's consuming.

22 So right there we had -- we observed Mr. O'Keefe
23 retrieve his phone from his rear left jean pocket, and he
24 put it back.

1 Now, the defendant picks up her second cocktail glass
2 with the added shot in it and consumes it.

3 Q Could we proceed to the next video, please. It is now
4 9:45 p.m.?

5 A Yes, sir.

6 So the bartender hands over another cocktail glass and
7 some beers. The shot goes into the empty one after it's
8 poured into the new cocktail glass, so that's drink number
9 four.

10 Q Does it also depict Mr. O'Keefe putting his cell phone
11 in his back pocket again?

12 A Yes.

13 Q By 9:45, how many drinks had been served to the
14 defendant?

15 A Four drinks.

16 Q Four drinks between 9:10 and 9:45?

17 A That's correct, in thirty-five minutes, four drinks.

18 Q Could we proceed to the next screen, please, 10:09 p.m.
19 (Video played.)

20 A Here the defendant speaks with the bartender and
21 gestures that she wants a shot.

22 MR. JACKSON: Objection.

23 THE COURT: The objection is sustained.

24 MR. JACKSON: Move to strike.

25 THE COURT: I'll strike that.

1 Q Is Mr. O'Keefe on his cell phone again?

2 A Yes, he is. And he puts it in his back pocket. The
3 defendant is showing Mr. O'Keefe the middle finger and then
4 puts the beverages on the bar.

5 MR. BRENNAN: May I proceed, Your Honor?

6 THE COURT: Yes.

7 Q What is the drink count at that point?

8 A At that point, it's four drinks.

9 Q Can we have the next?

10 (Video played.)

11 A Mr. O'Keefe brings over a couple of beverages. The
12 defendant retrieves the cocktail glass. A shot glass is
13 picked up by one of the patrons and the defendant retrieves
14 it from him and places it back on the bar.

15 The defendant is consuming the beverage in her hand,
16 places it on the bar.

17 Q What time are we at now?

18 A That was 10:34. So we are moving to 10:37.

19 Q What is the drink count at 10:34?

20 A That is five drinks at that point.

21 Q Could you play 10:37, please.

22 A The bartender makes four shots, top left corner. She's
23 seen preparing the four shot glasses. Two are on the bar
24 top now. She retrieves two more.

25 Q Ten forty-one, please.

1 (Video played.)

2 A Here are the four shot glasses already distributed.

3 Pours it into her drink. She does not consume it from the
4 shot glass. MR. JACKSON: Your Honor, I'm going to object
5 to the last comment.

6 THE COURT: Okay. I'll strike that.

7 MR. BRENNAN: Next video, please.

8 (Video played.)

9 Q Now, as Mr. O'Keefe and the defendant are getting ready
10 to leave, the defendant is holding the drink in her left
11 hand, continues to sip on it, and the two walk out of the
12 bar without the beverage in their hand being deposited
13 anywhere.

14 Q At 10:53, how many drinks had been served to the
15 defendant at this point?

16 A Seven.

17 MR. JACKSON: Objection, Your Honor.

18 THE COURT: I'm going to sustain the objection.

19 MR. JACKSON: Move to strike.

20 THE COURT: I'll strike that.

21 MR. BRENNAN: Next slide.

22 THE COURT: So I'm going to actually see counsel at
23 sidebar, please, on this.

24 (Sidebar commences:

1 THE COURT: It's ten past one. I have to give the
2 jurors a break.

3 MR. BRENNAN: I'm sorry. I thought it was quicker. I
4 didn't realize --

5 THE COURT: That's okay. So why don't we come back at
6 two o'clock. And we're still fine with the Commonwealth
7 excusing any witnesses --

8 MR. JACKSON: Yes, for sure. For sure.

9 THE COURT: Okay.
10 end of sidebar.)

11 THE COURT: All right. Jurors, this seems like a good
12 place to stop for the luncheon break. It's ten past one.
13 We'll see you at 2 o'clock, and, Trooper, if you could just
14 follow out after the jurors leave.

15 (Court in session at 2:10 p.m.)

16

17

18

19 (Court in session at 2:10 p.m.)

20 (Defendant is present with counsel.)

21 (Jury in.)

22 THE COURT: All right. Mr. Brennan, whenever you're
23 ready.

1 MR. BRENNAN: Thank you. Ms. Gilman, if you could take
2 us to 10:54, and before we begin, Trooper Bukhenik is this
3 a different location than all the video we've seen before?

4 A Yes, this is the Waterfall bar/grill surveillance
5 footage from inside the lounge area and for reference
6 purposes, this is -- at this location, the timestamp is
7 accurate to real-time.

8 MR. BRENNAN: Ms. Gilman, if you could begin at 10:54,
9 please.

10 A Here we see the defendant and Mr. O'Keefe walk into the
11 bar and see their friends and engage in hugs and greetings.

12 Q We'll let the Waterfall bar video just play.

13 A I'm sorry, sir?

14 Q We'll let the Waterfall video bar just play. We'll
15 just let it play, sir.

16 (Video played.)

17 Q Eleven forty-six, please.

18 (Video played.)

19 Q Twelve oh-six, please.

20 (Video played.)

21 Q Twelve oh-seven.

22 (Video played.)

23 Q Twelve-ten, please.

24 (Video played.)

1 Q Did you see the last person walk out the door on that
2 video clip?

3 A Yes, I did.

4 Q Did you identify who that is?

5 A Yes, it's Mr. John O'Keefe. He's wearing the two-tone
6 gray sweatshirt with the sleeves pulled up towards the
7 elbows.

8 Q Is that the same clothing that you found at Good
9 Samaritan Hospital when you went to visit?

10 A Yes, it is.

11 Q The baseball hat, did you have an opportunity to look
12 at the hat he was wearing?

13 A Yes, I did.

14 Q Is that consistent with the hat that you and the group
15 found on February 3, 2010?

16 A Yes, it is.

17 Q And the pants?

18 A Yes, it is.

19 MR. BRENNAN: May I approach, Your Honor?

20 THE COURT: Yes.

21 Q Showing you Exhibit 108C. This is already introduced
22 into evidence.

23 When you studied that photo, did you notice anything in
24 Mr. O'Keefe's hand?

1 A Yes, in his right hand he's holding a short style
2 cocktail glass with a black drinking straw protruding from
3 it as it is back dropped on the snow on the hood of the car
4 and it's parked outside.

5 Q Can you show 108C, please?

6 MR. BRENNAN: Ms. Gilman, could you focus as best as
7 you can on the drink.

8 Q Is that the photo you looked at?

9 A Yes, it is.

10 Q Can you point out or explain where you see the drinking
11 straw?

12 A Absolutely. Right there (indicating) to the right of
13 the red indicator, you can see the straw protruding out of
14 the glass Mr. O'Keefe is holding in his right hand.

15 Q Thank you.

16 MR. BRENNAN: You can take that down, Ms. Gilman.

17 MR. JACKSON: Your Honor, I'm going to object.

18 THE COURT: I'm going to allow it.

19 MR. BRENNAN: Can you take that down, Ms. Gilman.

20 Thank you.

21 Q One last matter, Trooper Bukhenik. In 2024, did you
22 obtain Ring video for that time period in 2024 from Mr.
23 O'Keefe's home?

24 A Yes, I did.

1 Q Did you provide that Ring video to a person who works
2 for a company by the name of Aperture?

3 A Yes, we do.

4 Q Just very basically, do you know what Aperture does?

5 A Yes, I do.

6 Q What do they do?

7 A They assist in a scientific fashion to reconstruct
8 tests and evaluate, analyze vehicle involved crashes and
9 deaths.

10 Q Is Aperture part of the Massachusetts State Police
11 team?

12 A They are not.

13 Q Are they a private company?

14 A Yes, they are.

15 MR. BRENNAN: May I approach?

16 THE COURT: Yes.

17 Q Handing an item to you, do you recognize it?

18 A Yes, I do.

19 Q What is it?

20 A It's Ring video from 2022.

21 Q For what location?

22 A Meadows.

23 MR. BRENNAN: Thank you. I'd move this into evidence.

24 MR. JACKSON: No objection, Your Honor.

1 (Whereupon Exhibit No. 109, Ring Video, was marked as an
2 exhibit.)

3 MR. BRENNAN: I have no further questions.

4 THE COURT: Whenever you're ready, Mr. Jackson.

5 MR. BRENNAN: Thank you, Your Honor.

6 **CROSS-EXAMINATION**

7 **BY MR. JACKSON:**

8 Q Good afternoon, Sergeant Bukhenik.

9 Q Good afternoon, sir.

10 Q I want to talk to you for a second about roles in this
11 case in this investigation. Would you agree with me that
12 Michael Proctor was the lead investigator as well as the
13 case agent in charge of this case?

14 A He was assigned as the case officer for the case.

15 Q In that position, given the fact that it was his
16 assignment, would you agree with me that he had a
17 leadership role insofar as the investigation of the case
18 was concerned?

19 A I wouldn't call it a leadership role. It's more of a
20 facilitator/liaison between the DA's personnel and within
21 the office and the state police. He also helps facilitate
22 any missions, outstanding tasks that need to be completed.

23 Q He obviously had a supervisor, correct?

24 A I'm sorry. Could you repeat that?

25 Q He obviously had a supervisor, correct?

1 A He did, yes. That would be myself.

2 Q That would be you?

3 A Yes.

4 Q Every case has some lead trooper in your unit, correct?
5 Every case is assigned to someone to sort of be in charge,
6 lead the charge of the investigation; is that right?

7 A Every case has a case officer that manages the
8 investigation.

9 Q Right. And managing the investigation doesn't mean,
10 you know, sort of typing up schedules. It means actually
11 managing the investigation, like deciding what search
12 warrants are going to be written in certain circumstances.
13 Is that one example, correct?

14 A They're responsible for writing and authoring those
15 search warrants. Sometimes the recommendation/suggestion
16 for leadership comes from the supervisors or the DA staff
17 where their experience might dictate otherwise.

18 Q And sometimes it comes from the lead case agent himself
19 or herself, correct?

20 A At times, yes.

21 Q Every team, even back when you were in the military,
22 you were on many, many teams in the Marine Corps, correct?

23 A I'm sorry. You were speaking facing away from me. I
24 couldn't hear you.

1 Q Every team, including, even back in the time you were
2 in the military, back in the time you were in the Marine
3 Corps, every team has multiple individuals involved in that
4 team, correct? That's the whole point of a team, multiple
5 people, correct?

6 A I would agree with you that team consists of more than
7 more person, yes.

8 Q And there has to be some sort of echelon in leadership
9 on that team, correct? Everybody's not just equal,
10 coequal, correct?

11 A We might have different duties/responsibilities, but
12 some teams have equal rank, yeah.

13 Q There's going to be a team leader, right? That's a
14 military phrase, team leader?

15 A Yes, there is a team leader in the Marine Corps in the
16 rifle platoon, but not every team has a leader.

17 Q Did the team in this case, in this investigation, have
18 a leader, someone who was assigned as the lead case agent,
19 not just another officer, not just another detective, but
20 the lead case agent?

21 A The case officer for the investigation was Michael
22 Proctor.

23 Q But you don't want to say lead case agent or case
24 officer, correct?

25 A I refer to that billet as case officer.

1 Q Your responsibility as the supervisor over this
2 particular case officer is -- or any other case officer
3 that you might have or any other trooper that you might
4 have under your supervision, your responsibility in no
5 small part is to supervise the individuals under your
6 command to ensure that the case is adequately investigated.
7 It's properly investigated. That's part of your role as a
8 supervisor, correct?

9 A That is one of my many responsibilities, yes.

10 Q It's partly because you have more experience, I'm
11 guessing, than the people under your charge; is that right?

12 A Certainly in my position, but there are many instances
13 where a sergeant might have less experience than a well-
14 seasoned trooper that's been in the office for 15 to 20
15 years, so it's --

16 Q Fair enough. Fair enough. That may be the case, but
17 under ordinary circumstances, you earn your way into a
18 supervisory role in the Massachusetts State Police through
19 both, not just time, but time and experience, correct?

20 A We take an exam and then get promoted based on the
21 exam.

22 Q Part of the responsibility that you have as a
23 supervisor is to make sure that the case is properly
24 investigated, and that the array of suspects that may
25 exist, you want to make sure, and you supervise, to make

1 sure that that array of suspects is appropriate and proper,
2 correct?

3 A In every investigation we follow the evidence. We
4 follow the statements made provided by eyewitnesses,
5 witnesses in the case, sometimes the defendants or the
6 suspects provides a statement to us. At many instances,
7 those could be contradictory statements. We follow the
8 evidence in every investigation, and that evidence
9 determines who the suspect, person of interest, or
10 ultimately the defendant is.

11 Q And you want to make sure that you gather or that your
12 subordinates gather that evidence in an appropriate and
13 objective way; obviously the foundation of your
14 investigation, correct?

15 A I'm sorry. Can you repeat that?

16 Q Maybe.

17 You obviously as a supervisor want to make sure -- you
18 talked about following the evidence. You want to make sure
19 that that evidence is gathered in a way that is adequate,
20 in a way that is objective, in a way that is unbiased, so
21 that you can gather the evidence and that will lead you to
22 the right folks, the right suspects?

23 A We always want to gather as much evidence as possible.
24 We conduct that gathering in the most appropriate ways
25 possible. Sometimes there are tough decisions that have to

1 be made where we have to either decide whether we're
2 collecting evidence A or evidence B, and those decisions
3 have to be made on the spot. At times, it's a time
4 sensitive matter. At times it's a decision made by our
5 group putting their heads together and deciding on that.
6 So I don't know if that answers your question, but
7 that's --

8 Q Not really.

9 A -- that's the most --

10 Q Let's try to it again.

11 A -- accurate explanation.

12 Q Okay. You done?

13 A I am.

14 Q Okay. Let's try that again. You want to make sure that
15 you -- the evidence as a supervisor supervising your
16 subordinates, you want to make that the evidence is
17 gathered in an appropriate way, in an objective way,
18 correct? Yes or no.

19 A Yes.

20 Q Okay. You're also doing everything you can, as a
21 supervisor and someone with the experience, to make sure
22 that the highest levels of integrities -- of integrity and
23 those demands are met in any investigation that you work
24 on.

1 A If there was a question of integrity, those individuals
2 would not be part of an investigation.

3 Q That includes knowing, obviously, what your
4 subordinates are doing?

5 A During the conduct of the investigation, during the
6 process of us investigating a crime, yes, we know what is
7 going on because every bit of information that comes in,
8 needs to be shared and we need to make sure the whole team
9 is aware of all the evidence and information that is
10 available to us at the time.

11 Q You want to make sure, I'm going to use a colloquial
12 phrase, you keep tabs of those reporting to you, correct?
13 What are you doing? What are they engaged in? When are
14 they coming and going? Who are they interviewing? Things
15 of that nature. Basic, investigative things, correct?

16 A For the most part. You can't track every single person
17 all the time, but this is a very serious line of work, a
18 lot depends on it. We speak for those that could no longer
19 speak for themselves, so we do our best to conduct every
20 investigation with integrity, honor, and get to the truth.

21 Q If you don't properly supervise, and I'm talking about
22 your role as a supervisor, if you don't probably engage in
23 that supervision, it obviously increases chances for
24 mistakes. It increases chances for bias seepage. It

1 increases chances that something could affect the adequacy
2 of the investigation, correct?

3 A That's a lot there. Can you repeat that, please?
4 Maybe one section at a time.

5 Q Sure. If you don't properly supervise your
6 subordinates in an investigation, failing to properly
7 supervise them could increase the chances that mistakes are
8 made; is that right?

9 A Yes, that is one possibility, yes.

10 Q All right. Let's break it down. It also increases
11 chances that there could be inherent biases that are
12 seeping into the case that you want to make sure doesn't
13 happen, correct?

14 A I believe that human beings all have biases, but during
15 the investigation, those biases do not affect, especially
16 in this case, they do not affect any outcome of the
17 investigation.

18 Q So I wasn't even talking about this case. I was
19 talking cases in general, your supervisory role in general.
20 Your job as a supervisor is to seek out and make sure that
21 there are no biases in an investigation, correct?

22 A Absolutely, absolutely.

23 Q You want to make sure that any investigation as a
24 supervisor, any investigation that is under your charge,

1 under supervision, is done adequately and professionally;
2 is that right?

3 A Yes, that's right.

4 Q And there is a chain of command for that, right,
5 meaning someone under your charge needs to report up the
6 chain of command to you, and you have supervisors to who
7 you report, correct?

8 A Yes, it's a paramilitary structure, and it is in order
9 for the colonel to keep command and control over the entire
10 agency of 2,000 plus people, it is absolutely necessary for
11 there be a reporting up and down within the ranks of the
12 Massachusetts State Police.

13 Q And you have -- by the way, who is your -- what's your
14 chain of command? Who did you report to back in 2022?

15 A I directly reported to Detective Lieutenant Tully.

16 Q Especially in a case -- you mentioned this case a
17 second ago. Especially in a case like this, a homicide
18 investigation, especially in a homicide investigation
19 involving a police officer, you have to maintain your
20 knowledge, an intimate knowledge, of those under your
21 command, under your charge to ensure that what they're
22 doing fits what you believe to be the proper protocol.

23 In other words, you're not just going to let people
24 loose. You're going to watch what they're doing and
25 actually supervise them, correct?

1 A Yes, absolutely. We are professionals, and we conduct
2 each and every investigation with that in mind and with the
3 integrity that is necessary.

4 Q You just used the word I was about to use. That
5 ensures the adequacy of the investigation, correct?

6 A Yes.

7 Q To use your word, that ensures the integrity of the
8 investigation; is that correct?

9 A Yes, that's correct.

10 Q As you sit here today, do you believe that this
11 investigation, now I'm going to turn to this investigation,
12 was conducted with professionalism, with competence, at the
13 highest level of integrity?

14 A This investigation was conducted professionally, with
15 integrity, and all the evidence collected, all the
16 statements collected, pointed in one direction. There was
17 no bias influence on the evidence on the information that
18 was collected or which direction the investigation pointed,
19 naturally.

20 Q Former Trooper Michael Proctor was the person who was
21 the assigned case agent, the lead case agent in this
22 particular investigation, correct?

23 A Michael Proctor was the case officer for this
24 investigation.

1 Q He was assigned, ultimately, to use another phrase, as
2 the lead investigator, wasn't he?

3 A I'm not going to agree with you.

4 Q Is there a reason that you want to try to distance
5 yourself from naming Michael Proctor as the lead
6 investigator? Is there some reason?

7 A I am not trying to distance myself. All I'm saying is
8 the term that use is the case officer. We're simply case
9 managers. There's no leading an investigation in any
10 direction.

11 Q So in your mind -- well, let me ask you this. As the
12 case officer, in other word for that, a synonym, would be
13 an investigator, correct? He's a detective, an
14 investigator, correct?

15 A He is a detective, yes.

16 Q And he was the one who was assigned by the
17 Massachusetts State Police because of his on-call status
18 that night, that morning, January 29, 2022, he was assigned
19 to the case, correct?

20 A Michael --

21 Q Yes or no. Assigned to the case. That's all I'm
22 asking.

23 A Well, you said a lot before that.

24 Q No, I didn't. I said he was assigned to the case on --
25 what I said before that was January 29, 2022, he was

1 assigned by the Massachusetts State Police as the case
2 officer for this case, correct?

3 A No.

4 Q Who was?

5 A He was assigned to be on-call a month prior. Just
6 because he was on-call, he was assigned the case as a
7 result. He was not assigned the case right there and then
8 because his assignment began much earlier in the day.

9 Q All right. Sergeant, we can do this all day I suppose.
10 He was on-call --

11 A He was.

12 Q -- on January 29, correct?

13 A He was.

14 Q Because he was on call, any case that happened to come
15 in, would be assigned to whom?

16 A To the on-call trooper that's on the schedule.

17 Q Which was whom?

18 A It was Michael Proctor.

19 Q Let me just ask you this. Do you believe that Michael
20 Proctor, his involvement in this case, taints the
21 investigation, tainted the investigation?

22 A No.

23 Q Not at all?

1 A The investigation was done with honor, integrity, and
2 all the evidence pointed in one direction and one direction
3 only.

4 Q Honor and integrity by Michael Proctor?

5 A Is that a question? I'm sorry.

6 Q Sure is. Everything I say is a question. Honor and
7 integrity by Michael Proctor, Sergeant?

8 MR. BRENNAN: Objection.

9 THE COURT: Sustained to the comment. Go ahead and ask
10 it again, Mr. Jackson.

11 MR. JACKSON: I'll ask it again.

12 Q You said honor and integrity. Honor and integrity by
13 Michael Proctor?

14 MR. BRENNAN: Objection.

15 THE COURT: I'll allow it.

16 A The investigation was conducted with honor and
17 integrity, and all the evidence pointed in one direction
18 and one direction only.

19 Q So, Sergeant Bukhenik, you don't want to answer my
20 question, correct?

21 A I will answer your question, absolutely.

22 Q Do you think this case was handled with honor and
23 integrity by Michael Proctor, Sergeant?

24 A The investigation was handled with integrity by Michael
25 Proctor.

1 Q You do know that he touched or had input in nearly
2 every part of this case, obviously, as a police officer,
3 correct?

4 A He managed the case.

5 Q So he had some input or had some connection to nearly
6 every part of the case, be it the physical evidence, the
7 search warrants, the interviews, things of that nature?

8 A He was one of the involved with collecting evidence,
9 conducting interviews, and signing affidavits for the
10 search warrants.

11 Q He didn't take a minor role in this case. He had a
12 major role in this case, would you at least agree with
13 that?

14 A He had a role that was more significant than others. A
15 major role would me to be suggest that he had 51 percent or
16 more, and with a team of the size that we had working on
17 this case, he did not have a major role.

18 Q So you believe as you sit here today, your testimony is
19 Michael Proctor did not have a major role in this
20 investigation of Commonwealth versus Karen Read because he
21 didn't have 51 percent of something? That's your
22 testimony?

23 A That's my understanding, yes.

1 Q Okay. You're aware of the search warrants that were
2 drafted, affidavits that were attended to those search
3 warrants in this case, correct?

4 A Am I aware of affidavits drafted in support --

5 Q -- those affidavits?

6 A In support of the search warrants?

7 Q Correct.

8 A Yes, I am.

9 Q You're also aware that there was a good amount of
10 physical evidence that was handled in this case, recovered,
11 touched, booked, assigned to the lab, things of that
12 nature.

13 A I'm aware of the evidence involved in this case, yes.

14 MR. JACKSON: May I approach the witness, Your Honor?

15 THE COURT: Yes.

16 Q Sergeant Bukhenik, I've handed you a binder. It's
17 tabbed just for your convenience so I don't have to walk
18 back and forth.

19 A Thank you, sir.

20 MR. JACKSON: With the Court's permission?

21 THE COURT: Yes.

22 Q Can you open tab one?

23 A (Witness complies.)

24 Q I'm not going to ask you to read the entire search
25 warrant, but is that a search warrant that ends in 07?

1 A Yes, it is.

2 Q And it's for generally Verizon records for Ms. Read's
3 cell phone?

4 A No, I would not agree with you, sir.

5 Q What is that search warrant for?

6 A It's for Verizon records for a VIN number which looks
7 like a vehicle.

8 Q Is that the vehicle the SUV, the licensed SUV in this
9 case?

10 A I do not know for sure because it doesn't have that
11 identifier here, and I don't know the VIN number off the
12 top of my head.

13 Q Okay. Fair enough. Who is the affiant?

14 A Michael Proctor.

15 Q Can you turn to tab two? Is that a search warrant
16 ending in number 14?

17 A Give me one second. I don't want to ruin your
18 presentation here.

19 Q Search warrant ending in 13. I misspoke.

20 A Okay.

21 Q Is that a search warrant for generally speaking Karen
22 Read's cell phone?

23 A The quality of this photocopy is so poor I cannot make
24 out exactly what it's for, but there is an overlay of print
25 I can read what is presented to me. If that's what you

1 want me to do. I do not know if this is an authentic copy
2 of a search warrant.

3 Q Let's just look at the affidavit. Can you tell me who
4 the affiant is?

5 A On this document, yeah, the affiant is Michael Proctor.

6 Q Can you turn to tab -- by the way, just staying with
7 that for a second, you said you don't recognize it. Do you
8 recognize it as being attended to this case?

9 A The application or the affidavit?

10 Q The search warrant.

11 A Again, the application or the -- together?

12 Q They go together.

13 A I understand that, but I'm asking which document you
14 want me to reference.

15 Q The document in total. In other words that's not a
16 search warrant dealing with a different case, it's dealing
17 with Ms. Read's case, correct?

18 A Again, I cannot say from the search warrant because of
19 the quality of it. The addendum A appears to be with this
20 case and the --

21 Q Have you seen it before?

22 A I'm sorry?

23 Q Have you ever seen it before this search warrant?

24 A I haven't read the whole thing so I can't testify to
25 that.

1 Q So this could be a search warrant that you never even
2 saw?

3 A Based on what you're presenting to me, never having
4 seen or not having read all the details of it, I cannot say
5 whether I've seen it before or not.

6 Q So you're not sure that Michael Proctor didn't just do
7 the search warrant without your knowledge as you sit here?

8 A I don't know if this is truly Michael Proctor's
9 product.

10 Q You think that might be a forgery?

11 A I'm sorry?

12 Q You think that might be a forgery the end of that
13 affidavit?

14 A For one, it's not signed. So I don't know who produced
15 this. What I'm saying to you is, I don't know who produced
16 it. The quality of the first document, the narrative, I
17 don't know who produced it. If you show me a search
18 warrant application with an affidavit from court with the
19 stamp -- the timestamp and the water seal from court, I
20 will tell you that that is what it appears to be. What you
21 have shown me here, I don't know what this is.

22 Q Otherwise, looking at that document, seeing the
23 affidavit, seeing the addendum, seeing Michael Proctor's
24 name on it, no clue whether that's a warrant that's

1 attended for this case that Michael Proctor drafted and
2 submitted? You have no clue?

3 A I can't tell -- take you at your word what you -
4 based --

5 Q I'm not asking you to take me at my word, sir. I'm not
6 testifying. I'm asking you to take the document at its
7 word. Do you recognize it or not? If you don't, you don't.

8 A I do not, no.

9 Q Okay. Let's turn to tab three. Does that appear to be
10 a search warrant ending in the number 14?

11 A Yes, it is.

12 Q And does that appear to generally be associated with
13 Ring camera footage at One Meadows or can you not tell
14 that?

15 A It has an email address, an associated MAC address.
16 So, yes, that's what it appears to be.

17 Q Okay. Can you tell me who the affiant is?

18 A Again, this is not a signed search warrant. This is
19 just an affidavit.

20 Q Whose name is at the bottom?

21 A The name at the bottom printed is Michael Proctor.

22 Q Can you turn to tab four?

23 A (Witness complies.)

24 Q Does that appear to be a search warrant ending in the
25 number 04?

1 A Yes, it does.

2 Q And does that appear to be for Ring footage also at One
3 Meadows in 2023?

4 A Based on the application addendum A, it's the same
5 email address associated with the previous location of
6 Meadows, yes.

7 Q Who is the affiant?

8 A Michael Proctor.

9 Q Can you turn to tab five?

10 A (Witness complies.)

11 Q Does that appear to be a police report?

12 A It does.

13 Q And do you see a reference in that police report for a
14 search warrant ending in 10 for a telematics system
15 regarding Ms. Read's SUV? It may speed things up if you
16 look at page 2.

17 A There is a reference to it, yes.

18 Q Whose report is that?

19 A It's Trooper Nicholas Guarino's report.

20 Q Who is referred to on page 2 as seeking a search
21 warrant ending in 10?

22 A That search warrant was issued out of Stoughton
23 District Court to and presented by Trooper Proctor.

24 Q Turn to page -- I'm sorry -- tab six if you wouldn't
25 mind.

1 A (Witness complies.)

2 Q Do you see a search warrant ending in the number 77?

3 A I see the application, yes.

4 Q And this deals with Google and some geofence data,
5 correct? A Yes, it is.

6 Q Who is the affiant?

7 A Again, this search warrant is not signed, so. But I
8 would say this isn't an actual search warrant, but it seems
9 like at the bottom it says Trooper Michael Proctor.

10 Q Can you turn to tab seven, please?

11 A (Witness complies.)

12 Q Does that appear to be a report from -- authored by
13 Nicholas Guarino?

14 A It does.

15 Q Does that deal with John O'Keefe's cell phone?

16 A It's a report written by Nicholas Guarino referencing
17 Mr. O'Keefe's cell phone, yes.

18 Q And it indicates that Mr. O'Keefe's cell phone was
19 seized by a particular trooper?

20 A That's what the report indicates, yes.

21 Q Who's the trooper?

22 A In this report, it says that Trooper Proctor secured
23 the cell phone.

24 Q Turn to tab eight, if you don't mind.

25 A (Witness complies.)

1 Q Do you see a similar report by Trooper Guarino?

2 A Yes.

3 Q And do you see a reference -- excuse me -- to Karen
4 Read's cell phone having been seized?

5 A Yes.

6 Q And that was seized by Trooper Proctor also, correct?

7 A Yeah, him and I were there together.

8 Q His name is in the report, though?

9 A Yes, his name is in the report.

10 Q Your name is not in the report, is it?

11 A I'll have to check. Give me a second, please. My
12 initials are in the report.

13 Q Turn to tab nine.

14 A (Witness complies.)

15 Q Do you see a report by you?

16 A I do.

17 Q Indicating early spring 2022 there was a CPD video
18 requested by someone, correct?

19 A Yes.

20 Q Who did you indicate requested that CPD video?

21 A The case officer, Trooper Proctor.

22 Q And you went actually in this instance, you actually
23 went and got the video and delivered it to him, correct, at
24 his request?

25 A Yes, as the case officer I would, yeah.

1 Q Because as the case officer, he's entitled to ask for
2 things and have them delivered, correct?

3 A Anybody's entitled to ask for things. Absolutely. We
4 are pursuing justice. We're looking for any and all
5 possible evidence.

6 Q I'm sure you are. As the case officer, he's entitled
7 to ask for things to be delivered to him?

8 A Yes, yes.

9 Q You are his supervisor?

10 A Yes, absolutely.

11 Q You wouldn't mind turning to tab, please.

12 A (Witness complies.)

13 Q Do you recognize that report?

14 A I'm sorry. I was still turning. It's the same report.

15 Q Same report, different paragraph also talking -- or the
16 different sentence talking about a July 2023, CPD or Canton
17 Police Department video that was also requested, correct?

18 A I'm sorry. Can you repeat that question?

19 Q Sure. That particular part of the report where I'm
20 directing your attention to July of 2023, there was a
21 Canton Police Department video requested by someone,
22 correct?

23 A Yes.

24 Q Who was that requested by?

25 A Trooper Proctor.

1 Q And who delivered it to Trooper Proctor?

2 A I did.

3 Q Turn to tab 11, please.

4 A (Witness complies.)

5 Q Do you see a document referencing the analysis of
6 Canton town library videos?

7 A I do.

8 Q And, who is it, listed as having received and reviewed
9 and analyzed the town library videos.

10 A Give me just one second. I have to read the report.

11 It was Trooper Proctor that analyzed the video and
12 wrote up the timeline.

13 Q Thank you. Sergeant, if you'll turn to tab at 12.

14 A (Witness complies.)

15 Q Do you recognize that as being a November 2023, report?

16 A Yes, it's report numbered 83.

17 Q And who authored that report?

18 A This report is authored by Trooper Michael Proctor.

19 Q Does that indicate -- and I'm not going to ask you to
20 go through the entirety of the report, but if you scanned
21 that report, does that indicate certain items of evidence
22 that Trooper Proctor claim to have recovered on his own,
23 pieces of plastic, small black plastic, clear plastic, a
24 fragment of glass on February 11, 2022, three pieces of
25 clear plastic on February 11, 2022, clear and red plastic

1 pieces on February 18th of 2022. Is all that referenced in
2 there?

3 A Those items are documented in this reference as were
4 collect, yes.

5 Q And those are all documented as having been collected
6 by Trooper Proctor himself, correct?

7 A Yes, they were.

8 Q And if you turn to tab 13.

9 A (Witness complies.)

10 Q This is an evidence submission form, correct?

11 A I'm sorry, 13?

12 Q Tab 13, yes.

13 A All right. Yes, it's a copy of an evidence submission
14 form from March 14, 2022.

15 Q And does that indicate submission of certain items of
16 physical evidence to -- from Massachusetts State Police
17 custody to the crime lab, correct?

18 A I would say so based on the -- this copy's information
19 on there, yes, I would say so.

20 Q And who's the person who submitted the items that we'll
21 -- I'll ask you about?

22 A It is Trooper Michael Proctor.

23 Q And those items include clothing; is that right? We
24 don't have to go through them line by line, but generally,
25 there's clothing items mentioned on there.

1 A The first line is a clothing item, yes.

2 Q That includes a lot of what we saw today, Sergeant
3 Bukhenik, the shirt, the orange shirt, the sweatshirt, the
4 blue jeans, a belt, correct?

5 A Blue jeans, belt. What was the other thing that you
6 listed? Q Shirts.

7 A There was a shirt, yes.

8 Q It also lists certain items of plastic, certain items
9 of glass; is that right?

10 A Some of those items are listed, yes.

11 Q And it even mentions the straw that you talked to Mr.
12 Brennan about, correct?

13 A Yes, the straw is mentioned and numbered.

14 Q And all those items were submitted on March 14, 2022,
15 correct?

16 A That's what the form indicates, yes.

17 Q And all of those items were submitted by Michael
18 Proctor from his custody and control to the crime lab,
19 correct?

20 A That's who signed the form.

21 Q So the things that, according to the form at least, and
22 your experience with forms of this nature, it was Michael
23 Proctor who possessed and controlled those items before
24 they were turned over to the Massachusetts State Police --
25 I'm sorry -- to the crime lab, correct?

1 A That would be accurate, yes.

2 Q So he would have maintained all of it; is that right?
3 At least at some point?

4 A They would have been in his custody as he's
5 transporting them for processing at the lab, of course.

6 Q And then after he maintained control of it, eventually
7 he turned it over and submitted those items, correct?

8 A If the form is accurate, then, yes. That's absolutely
9 right.

10 Q So we've just gone through a few things. What you and
11 I have just gone through is not nearly everything that
12 Michael Proctor was involved with in terms of this
13 investigation, correct? We didn't talk about the witness
14 interviews, right?

15 A We did not talk about witness interviews, no.

16 Q So there's a lot more that Michael Proctor on a day-to-
17 day basis as the case officer was involved in addition to
18 what you and I just talked about, correct?

19 A Yes, there was many more things he was involved in. As
20 I mentioned, that was just report 83. There's a hundred
21 plus reports in this case that were written. There's a lot
22 of evidence that was collected and processed. So he had a
23 part in the investigation as the case officer managing the
24 tasks, but there's a lot of people involved in this
25 investigation.

1 Q So he touched or authored or reviewed or controlled at
2 least every bit of what you and I have talked about this
3 morning, all these items we just talked about, correct?

4 A He is referenced or his name appears on most of these
5 documents, yes, if not all.

6 Q Of the documents we just went through, he's not just
7 referenced; he's the author of every single one of them,
8 correct?

9 A No, Nicholas Guarino wrote some of these reports.

10 Q Sorry. The author of the search warrant, I asked you
11 to look at Nicholas Guarino's report to reference the
12 search warrant that Nicholas Guarino referenced in his
13 report, and Michael Proctor was the author of that search
14 warrant, correct?

15 A Again, I hate to do this to you, but ...

16 Q Oh, I don't think you do.

17 A Some of these search warrants were not -- could not be
18 authenticated. I don't know what these documents were. I
19 didn't read them so I can't tell you that he was the
20 author. Like, what you presented, I can't speak to.

21 Q You just made my point. Even as the supervisor, you
22 don't know everything that Michael Proctor was doing, do
23 you?

24 A It's impossible to know everything somebody was doing.

1 Q Got it. Especially the case officer on this case, as
2 busy as he was, right?

3 A I'm sorry?

4 Q Especially the case on this case as busy as he was,
5 Michael Proctor, right?

6 A He was keeping us and his supervisors abreast of what
7 was happening, the next step, the search warrants he was
8 writing, the evidence that was being collected, the
9 interviews that are being conducted, court dates, and
10 motions, and stuff like that.

11 Q So he would do the work, and then keep you, as the word
12 you just used, keep you abreast of that work?

13 A Right. Unless I was involved with the investigation
14 myself, we did a ton of interviews together as I authored
15 some of these reports as well. I said there was 100 plus
16 reports.

17 Q Sir, you were notified on January 29, 2022, that a
18 Boston police officer was found gravely injured in front of
19 34 Fairview in the lawn, in the yard, correct?

20 A No, that is not correct.

21 Q What were you notified of?

22 A When the notification came in, it was that there was a
23 male party found in the snowbank.

24 Q At some point you learned that male party was John
25 O'Keefe, a police officer, correct?

1 A At some point, we did learn that he was a Boston police
2 officer.

3 Q As a matter fact, you learned that morning. It might
4 not have been the first notification, but certainly early
5 that morning, you knew that John O'Keefe was a Boston
6 police officer?

7 A At some point we learned. I can't -- I don't remember
8 exactly when, if it was morning, just after 12. I don't
9 know when. But we did learn that he was a Boston police
10 officer.

11 Q I'm not asking about what Trooper Proctor learned but
12 what you learned. You learned that he was a Boston police
13 officer, correct?

14 A At some point, I learned that he was a Boston police
15 officer, yes.

16 Q And on January 29, did you ever respond to 34 Fairview
17 Road at any time?

18 A On January 29, 2022, at no point in time that I or
19 Michael Proctor, who was with me the whole time, ever
20 respond to 34 Fairview Road.

21 Q So the answer to my question very simply is no, right?

22 A That's correct.

23 Q You just answered this question as well, but I want to
24 make sure we're absolutely clear.

1 MR. JACKSON: Your Honor, may I approach? I don't want
2 the binder to be in the witness's way.

3 Q At no point on January 29, 2022, did Michael Proctor
4 respond to 34 Fairview Road either, did he?

5 A No, he did not.

6 Q You already indicated and you described in some detail
7 that Massachusetts State Police took over the investigation
8 from Canton Police Department from around 8:00 or 9:00
9 a.m., correct, following certain protocols?

10 A Yes, at some point in the morning, once it was
11 determined that Mr. O'Keefe was gravely injured and was
12 being transported to the hospital with no signs of life,
13 and we were advised that he had an estimated ten percent of
14 survival rate, we engaged our services and responded to
15 Canton police to begin the investigation.

16 Q So the answer to that question is yes, correct?

17 A Yes.

18 Q You'll often work with a local police agency, even
19 though -- police department, even though Massachusetts
20 State Police may have statutory jurisdiction over the case
21 because it's a homicide, right?

22 A Yes. Part of our mission is to aid and assist local
23 police departments when they request it. In this specific
24 situation, as I stated earlier, the DA's office has
25 exclusive jurisdiction over death investigations, and our

1 office has that responsibility of investigating those
2 cases, but we work very well with local departments.

3 Q So the answer to that question is yes, correct?

4 A Yes.

5 Q If you can answer my question yes or no, this will go a
6 lot faster.

7 In this case, even though you often times work with the
8 local law enforcement agencies, it was determined you would
9 not continue working with Canton PD because of a conflict
10 or the perception of a potential conflict of interest,
11 correct?

12 A To alleviate any perception, not that one existed, the
13 Canton Police Department recused themselves from being
14 involved in the interview portion of the investigation.

15 Q And that's in no small part because the lawn on which
16 Mr. O'Keefe was found belongs to Michael Albert -- I'm
17 sorry -- to Brian Albert, and Kevin Albert, Brian Albert's
18 brother, worked as a detective at Canton Police Department,
19 correct?

20 A That was my understanding why they chose to take those
21 steps.

22 Q Your first documented action in this case was to call
23 the medical examiner's office, first documented action, not
24 the first thing you did, but the first thing that you

1 documented that you did was call the medical examiner's
2 office at about 10:41 a.m., correct?

3 A In what respect are you saying first documented action?

4 Q There's a report where we can look at the earliest
5 thing that you did, and it's actually written down and
6 documented. Do you know what I mean by documented?
7 Written on a piece of paper.

8 A In that respect of documentation, I would have to look
9 into it. I believe there was something probably before
10 that, since there was a documentation of us getting
11 notified of the incident.

12 Q At 10:41 -- let me just ask it a little bit more
13 straightforward if I can. Let's get to the point.

14 At 10:41 a.m., you called the medical examiner's office
15 to inform that Mr. O'Keefe, quote, was struck in the face
16 with a cocktail glass or at least appeared to be, correct?

17 A That is in part what I advised the medical examiner's
18 office. Where they are responsible for the medical portion
19 of --

20 MR. JACKSON: Objection, Your Honor. May we approach
21 briefly?

22 THE COURT: Okay.

23 (Sidebar commences:

24 MR. JACKSON: I don't want to embarrass the witness,
25 and I certainly don't want do anything to make the jurors

1 uncomfortable, but I'm just going to have to start
2 objecting. This witness is literally giving a narrative
3 after every single question. I know the Court notices it.
4 I notice it. Everybody else notices it. It's becoming
5 almost comical. I've asked him probably six times
6 elegantly, so the answer to my question is yes, or the
7 answer to my question is no. If you can -- I even said, "If
8 you can answer a question yes or no, help me out." This is
9 going to take five days if this continues. I'm going to
10 ask the Court to admonish -- if we could take a five-minute
11 break.

12 THE COURT: I'm going to tell him to focus on your
13 question and answer your question.

14 MR. JACKSON: Thank you.

15 MR. BRENNAN: I will note some of the questions are not
16 accurate. For example, he was asked if the first
17 documented event was calling the medical examiner's office.
18 It's not. And it's not his document so it becomes a
19 confusing question, and the predicate isn't there. I agree
20 this witness should answer the questions, directly;
21 however, some of these questions can't be answered yes or
22 no.

23 THE COURT: You're most effective with the ones that
24 the questioning are like the bare basic with this witness.

1 MR. JACKSON: I'm going to try to pare it down as much
2 as I can.

3 THE COURT: A lot of your questions incorporated two or
4 three points, and you know with a difficult witness, if he
5 disagrees to one, you're getting nothing out of him.

6 MR. JACKSON: Understood. I will do my part as well.

7 THE COURT: All right. So I'll just tell him to do his
8 best to answer your question.
9 end of sidebar.)

10 THE COURT: All right. So, Sergeant, I'm going to ask
11 you to do your best to answer the question that's asked.

12 THE WITNESS: Yes, Your Honor.

13 MR. JACKSON: May I have just a moment, Your Honor?

14 THE COURT: Yes.

15 Q Did you contact the medical examiner's office in the
16 morning of January 29, 2022?

17 A Yes.

18 Q And did you state to them that there was a possibility
19 that the decedent, John O'Keefe, was struck in the face
20 with a cocktail glass?

21 A I don't recall my words exactly, but that sounds
22 accurate to what I might have said.

23 Q At least your initial investigation during those early
24 morning hours, those critical hours, led you to believe at

1 least that there was a possibility that there was a
2 physical altercation, correct?

3 A Yes.

4 Q What steps did you take at that moment to determine
5 whether or not anybody in the house may have been involved
6 in that physical altercation that you thought was a
7 possibility?

8 A That's a compound question. I have to answer it
9 separately.

10 Q Answer however you want to. It's an open ended
11 question, which is unlike me.

12 What steps did you take to at that moment to determine
13 whether or not anybody in the house could have been
14 involved in that possible physical altercation that you
15 just described?

16 A We interviewed the homeowner and two witnesses that
17 were in that house.

18 Q You never went into the house, did you?

19 A I personally --

20 Q January 29, at least?

21 A I personally did not go in the house on --

22 Q You did not secure the house or remove the occupants,
23 did you?

24 A Which day?

1 Q January 29, I'm talking about the morning of January
2 29?

3 A I did not, no.

4 Q You did not secure the yard as a crime scene, correct?

5 A That's correct.

6 Q You didn't conduct any search of that house?

7 A No, I did not.

8 Q You didn't take any photographs of the interior of that
9 house?

10 A I did not.

11 Q You didn't ask a forensic criminalist to join you and
12 process the house, correct?

13 A That is correct.

14 Q You didn't set up a crime scene log to determine who
15 was coming in and going out of the potential crime scene?

16 A I did not.

17 Q No one actually documented the crime scene by taking
18 contextual photographs and then close-up photographs, et
19 cetera during those early morning hours, correct?

20 A I cannot speak to that. I was not there.

21 Q So the answer is you didn't do that, and you didn't
22 cause that to be done?

23 A I did not do that.

24 Q Crime scene services section, what is that?

1 A It's a unit, specialized unit, on the state police.
2 They are specially trained with documentation, photographs,
3 video, latent fingerprints, foot and tire impressions,
4 footwear and tire impressions. They assist other
5 investigators in documenting and processing scenes.

6 Q Did you contact CSSS to process the house or the yard
7 or the area adjacent to the yard?

8 A Which house, sir?

9 Q 34 Fairview, Sergeant Bukhenik. Did you think I was
10 talking about a different house?

11 A Yes, I did.

12 Q Really?

13 A Yes.

14 Q Let's stick with 34 Fairview where John O'Keefe's body
15 was found.

16 Did you call CSSS out to the scene to process that
17 house?

18 A I did not contact crime scene services on January 29,
19 to the area of 34 Fairview Road to the lawn where John
20 O'Keefe's body was found.

21 Q You mentioned that you conducted interviews that day,
22 correct?

23 A That's correct.

24 Q Where were those interviews conducted?

1 A The first interview was conducted at Canton Police
2 Department. The second, third, and fourth were conducted
3 at a residence in Canton. The fifth --

4 Q I'm sorry. What was the first interview at Canton
5 Police Department that morning?

6 A Sergeant Goode.

7 Q So other than Sergeant Goode, I'm talking about
8 civilian witnesses. You mentioned three civilian witnesses.
9 Where were those three witnesses interviewed?

10 A At a residence in Canton.

11 Q But not at 34 Fairview Road, just to be clear?

12 A They were not at 34 Fairview Road, no.

13 Q They had been at 34 Fairview Road, though, hadn't they,
14 all three of them?

15 A Yes, they had.

16 Q As a matter fact, Michael Proctor spoke to one, at
17 least one of them, while she was at 34 Fairview Road,
18 correct?

19 A I don't know.

20 Q Weren't you with Michael Proctor when he spoke to
21 Jennifer McCabe?

22 A Which time, sir?

23 Q The first time he called her to set up the interview
24 that morning on January 29.

1 A I don't know where Jennifer McCabe was. I can't
2 testify to that. I have no idea.

3 Q So if that call was made, she talked about that call
4 being made, that was made by Michael Proctor, not by --
5 outside of your presence?

6 A Can you repeat that?

7 Q Sure. If there was a call made to Jennifer McCabe by
8 Michael Proctor that morning, that was outside your
9 presence?

10 A Not necessarily. I just did not know where she was.

11 Q So the only three people you interviewed were Jennifer
12 McCabe, Matt McCabe, and Brian Albert, correct?

13 A Not correct.

14 Q Who else?

15 A The defendant.

16 Q Other than Ms. Read and before you got to Ms. Read,
17 because you didn't get to Ms. Read, correct, until 3:34,
18 correct --

19 A In the afternoon.

20 Q -- in the afternoon?

21 A I don't know exactly what time we began the
22 conversation.

23 Q I'm talking about in the morning when you were trying
24 to figure out what was going on, you interviewed three
25 people?

1 A Yes, we did.

2 Q Three civilians.

3 A At one point we interviewed three civilians, the
4 homeowner at 34 Fairview Road, and two witnesses that were
5 with Mr. O'Keefe and the defendant the night prior and then
6 one of the witnesses that was with the defendant when Mr.
7 O'Keefe was discovered.

8 Q And these are individuals that you made the assessment
9 having been with or shortly -- been with at time or shortly
10 before he was last seen alive, correct?

11 A Based on the information that we had at that time, one
12 of the individuals was with him right before he was seen
13 alive.

14 Q And the other two --

15 Q Right before he was last seen alive?

16 A One of the individuals was with him right before he was
17 last seen alive, and the other two --

18 Q When he was last seen alive?

19 A One of the individuals with him right before he was
20 last seen alive, and two of the individuals saw the
21 defendant and Mr. O'Keefe together.

22 Q And those same two individuals were also with Mr.
23 O'Keefe just minutes before he was last seen alive in the
24 Waterfall, correct?

1 A All three of the individuals were with Mr. O'Keefe and
2 the defendant at Waterfall, yes.

3 Q And all three of the individuals were also at 34
4 Fairview when Mr. O'Keefe arrived. You had that
5 information, didn't you?

6 A We did not have information of Mr. O'Keefe arriving at
7 the house. He was dropped off on the lawn.

8 Q And all three people, all three, were either named
9 McCabe or Albert. Those are the three people that you had
10 information from, correct?

11 A Which information? We had information from lot of
12 different sources at that point in time.

13 Q I'm talking about the first three interviews that you
14 did. The first three civilian interviews you did that
15 morning. Still on the same thing.

16 A Right.

17 Q You managed to talk to three people at a residence in
18 Canton: Brian Albert, Jen McCabe, Matt McCabe. All three
19 were at 34 Fairview when they indicated John O'Keefe
20 arrived in an SUV. They all told you that, right?

21 A They were inside the home when the defendant and Mr.
22 O'Keefe arrived in the SUV.

23 Q These are the very people that would have a motive to
24 lie if they were somehow involved, right?

25 MR. BRENNAN: Objection.

1 THE COURT: Can you answer that, Sergeant?

2 THE WITNESS: No, Your Honor.

3 Q You're a professional investigator, correct?

4 A That's correct.

5 Q Homicide investigator, right?

6 A That's correct.

7 Q Many years of experience, right? Is that a yes?

8 A I don't know what many means to you, but.

9 Q Well, of course not. Let me -- how many years of
10 experience do you have?

11 A In homicide?

12 Q Correct.

13 A Ten next week.

14 Q Does that sound like many?

15 A Again, I didn't answer the first time because I don't
16 know what you would think many is.

17 Q Right, right, right. Suspects ever lie to you?

18 A Yes.

19 Q Suspects lie to you all the time, don't they?

20 A All the time is not accurate. They lie about certain
21 things to create an alibi for themselves and state
22 contradicting facts or fabricated stories.

23 Q And --

24 A All the time would mean that they're constantly lying
25 about everything.

1 Q You understand the colloquialism "all the time"?

2 A I do not know the term colloquialism.

3 Q Okay. Let's try it a different way. If these three
4 individuals were involved in the death of John O'Keefe, or
5 knew others who were involved in the death of John O'Keefe,
6 and they were close to, they would have a motive to lie
7 about that, correct?

8 MR. BRENNAN: Objection.

9 THE COURT: Sustained.

10 Q But you took these three individuals just at their word
11 based on those first three interviews, correct?

12 A No, not correct.

13 Q You didn't go in the house. You didn't did search the
14 house. We've already talked about that, right?

15 A I did not go into 34 Fairview Road. No, I did not.

16 Q You didn't ask them to come with you down to the
17 station, correct?

18 A That's correct. I did not ask them to come to the
19 station.

20 Q As a matter fact, when you went to interview Jennifer
21 McCabe at her home, Brian Albert happened to be there,
22 correct?

23 A He was there, and I was able to conduct the interview
24 at the house with Brian Albert, yes.

25 Q Did you find that odd?

1 A Absolutely not.

2 Q Totally normal for you to conduct a formal interview in
3 a homicide case and have an extra person show up at the
4 house just to be there.

5 A Absolutely. Cooperating witnesses always try and be
6 assisting, so cooperating witnesses would assist us.

7 Q You just used the word always. You didn't know what
8 "all the time" means. Would they always try to be
9 assisting?

10 A Well, they're cooperating. That's in the nature.

11 Q So they always try to help you out?

12 A All right. Maybe I misspoke. They are cooperating
13 witnesses, so always is such a finite definitive statement.
14 I apologize for using it.

15 Q And if an investigator is keeping an open mind, right,
16 open to all possibilities at the beginning of the
17 investigation, someone you now are calling a cooperating
18 witness, there might well be a suspect who's lying,
19 correct?

20 A Yes, yes.

21 Q That's a possibility?

22 A That is a possibility, yes.

23 MR. JACKSON: May I have just a minute, Your Honor?

24 THE COURT: Yes.

1 Q I want to shift gears for a second, Sergeant Bukhenik,
2 and ask you about some of the physical evidence in the
3 case.

4 You and Mr. Proctor collected the gray sweatshirt and
5 the orange T-shirt that we saw entered into evidence today,
6 correct? A That's correct.

7 Q You talked about finding that evidence at the Good
8 Samaritan Hospital; is that right?

9 A That is where it was seized from, yes.

10 Q You described it as being on the floor, correct?

11 A That's correct, yes.

12 Q Where on the floor was it when you first saw it? On
13 the hospital floor, not the ambulance floor, correct?

14 A When I first saw it was on the hospital floor, correct.

15 MR. JACKSON: All right. May I approach?

16 THE COURT: Yes.

17 Q Can you take a look at that photograph, please?

18 A Yes.

19 Q Do you recognize that, sir?

20 A Yes, I do.

21 Q And how do you recognize it?

22 A It's one of the photographs taken from Mr. O'Keefe's
23 emergency department room.

24 Q Do you recognize the shirt or shirts that you earlier
25 described as being in that photograph?

1 A There is an orange shirt depicted on the floor to the
2 left side, yes.

3 MR. JACKSON: Your Honor, I'd ask that that be marked
4 and entered into evidence.

5 MR. BRENNAN: No objection.

6 MR. JACKSON: While that's being marked, may we
7 approach very briefly?

8 THE COURT: Okay.

9 (Sidebar commences:

10 THE COURT: I don't know whether it's been marked. Go
11 ahead and mark it, and then you can go ahead.

12 (Whereupon Exhibit No. 110, Photograph, was marked as an
13 exhibit.)

14 MR. JACKSON: Your Honor, I would at some point, I
15 would like to show this to the jurors, but I don't -- out
16 of deference to the family, I don't want them to have to
17 see this.

18 THE COURT: Are you going to crop it and --

19 MR. JACKSON: I wasn't going to. I think the jurors
20 are fine seeing it.

21 THE COURT: Do you care if the family sees this?

22 MR. BRENNAN: I prefer they don't. I appreciate the
23 kindness. Perhaps we can -- do you want to do it right
24 now?

25 MR. JACKSON: You know what I could do is I could --

1 MR. BRENNAN: He has a right to show it if it's
2 important.

3 MR. JACKSON: That's what I was thinking. I could
4 just --

5 THE CLERK: Yeah --

6 MR. JACKSON: I'm happy to do that.

7 MR. BRENNAN: To walk it by the jury.

8 MR. YANNETTI: Yeah, exactly.

9 THE COURT: The cameras are right so if they don't see
10 it -- MR. JACKSON: Oh, that's a good point.

11 MS. LAUGHLIN: May I have a minute?

12 THE COURT: Yes.

13 So just so the record is clear, Ms. Laughlin said she'd
14 like to just give the family a heads up and it appears
15 that's what she's doing.

16 MS. LAUGHLIN: There's no objection. The family
17 understands.

18 THE COURT: All right.

19 MR. BRENNAN: Thank you. I appreciate that.
20 end of sidebar.)

21 MR. JACKSON: With Your Honor's permission, may I
22 publish?

23 THE COURT: Yes.

1 Q Sergeant Bukhenik, this is Exhibit 110. You just
2 mentioned seeing an orange shirt. Do you have a laser
3 pointer with you? If you don't I can grab you one.

4 A I do.

5 Q Can you point for the jurors where you were describing
6 the orange -- just pick whichever TV you want to use.

7 MR. JACKSON: May I approach?

8 THE COURT: Yes. It worked earlier, didn't it?

9 Q That's a beast. That should work. Tell me which TV
10 you're going to look at so the jurors understand and
11 follow.

12 A I'll do the one to my right so the jurors can see.
13 There is something orange right there on the floor.

14 Q Does that appear to be on top of something darker?

15 A It does appear to be on top of possibly a darker item
16 of clothing, possibly the jeans. I'm not sure exactly from
17 here what that is.

18 Q Do you believe as you sit here, and I'm asking it open
19 because I don't know what the answer is, do you believe as
20 you sit here that's the orange shirt and/or the gray
21 sweatshirt and/or the jeans?

22 A If we can zoom in, I can probably pick out the pattern.
23 So from here, it looks like it's a cut fabric indicating
24 that it most likely is the orange shirt. The jeans, you
25 can see the belt loop through the jeans on the left side.

1 I would say that that is Mr. O'Keefe's clothing that we
2 picked up and bagged.

3 Q Okay. If you could unzoom that for me. One more
4 question. Do you see Mr. O'Keefe's left leg and right leg
5 from about the little lower than mid-thigh down, correct?

6 A Mid-thigh down I see, his leg, yes.

7 Q Okay. You see his right knee?

8 A The interior portion of it, yes.

9 Q Do you see any scrapes or marks or cuts or abrasions on
10 that right knee?

11 A Not from this point, no.

12 Q Thank you.

13 MR. JACKSON: You can take that down. May I approach?

14 THE COURT: Yes.

15 Q I have one more question on that photo. Sorry about
16 that. Can we display the photo one time, Ms. Johnson? We
17 don't even have to turn the lights off.

18 Take a look to the left. Could you zoom in on the
19 chair? Do you see that item sitting on the chair, Sergeant?

20 A Yes, I do.

21 Q What is that?

22 A That is either mine or Michael Proctor's notepad
23 binder.

24 Q Thank you. You can take that down.

1 Concerning the two shirts that you earlier testified to
2 being sopping wet, did you bag those shirts -- well, did
3 you bag those shirts or did Michael Proctor bag those
4 shirts?

5 A We bagged them together. If my memory is not failing
6 me, I believe he picked it up, and I held the bag open.
7 But I could be wrong maybe I picked it up and he held it
8 open.

9 Q That's fine. The two of you together got it in a bag?

10 A Yes.

11 Q Was it a paper bag or a plastic bag?

12 A It was a large paper bag the size of like a leaf lawn -
13 - lawn leaf bag you would get for disposing your yard
14 waste.

15 Q Was -- and is it specifically an evidence bag or was it
16 something that you all came up with on the spot?

17 A It's a bag that was provided by crime scene services.

18 Q Okay. So it's an official law enforcement type bag or a
19 grocery bag?

20 A It was not a grocery bag. It was a large bag.

21 Q Okay. Understood. Did both shirts go in the same bag?

22 A All the clothing items that were in the pile went into
23 the same bag.

24 Q Does that include the jeans and belt and boxer shorts?

25 A Yes, yes.

1 Q You went from Good Sam, Good Samaritan straight to
2 Dighton, correct?

3 A Yes.

4 Q And you are the one that put the bag in your -- the
5 super cab of your pickup truck?

6 A Yes.

7 Q And then from Dighton, you went over to Canton PD; is
8 that right?

9 A Yes, we did.

10 Q And then from Canton PD, ultimately before the night
11 was out, you ended up back at the Norfolk DA's office which
12 is where you and Michael Proctor's office at the time,
13 correct?

14 A Yes.

15 Q When exactly, if you recall, did you lay out the
16 clothing? You indicated it was sopping wet. You laid it
17 out on butcher paper. When was that?

18 A It was during the evening hours once we arrived to the
19 Canton office.

20 Q It was about 10:00 p.m. I'm guessing?

21 A No, it was before that.

22 Q It was before 10:00?

23 A Yes.

24 MR. JACKSON: Can I have just a moment?

25 THE COURT: Yes.

1 Q Sergeant, I just want to get the record as clear as
2 possible. Did you testify at a hearing last year, a
3 proceeding last year here in this courtroom that it was
4 about 10 o'clock at night when you finally got the clothing
5 laid out on the butcher paper?

6 A Based on the context in the question, I might've
7 estimated to be around 10:00. I would have to take a look
8 at the exact language being used.

9 Q That's fair. I'm not trying to hold you to anything.
10 I just want to make sure we get it as clear as possible.

11 MR. JACKSON: May I approach?

12 THE COURT: Yes.

13 Q Highlighted portions, sir.

14 Sergeant, does that refresh your recollection to about
15 the time that you ended up at the office to lay out those
16 items on the butcher paper?

17 A That refreshes my memory to my testimony prior.

18 Q And that was about your prior testimony, it was about
19 10:00 p.m.?

20 A When asked about what time the items were laid out, I
21 indicated previously it was 10 o'clock, approximately.

22 Q You didn't stay there all night with those clothes?

23 A No, I did not.

24 Q You left the clothes with Michael Proctor, did you not?

1 A I can't testify to leaving them quote/unquote with
2 Michael Proctor. We laid them out together in the drying
3 area on the butcher paper, and then at some point, I
4 secured from the office. I don't have a memory if he left
5 with me, or if he remained to do additional tasks in the
6 office to, you know, whatever we had to do.

7 Q You indicated that those clothes stayed in that room
8 starting on January 29, 2022, so that they could dry,
9 correct?

10 A That's correct, sir.

11 Q Ultimately, they were bagged after they were dried,
12 correct? A At some point they were, yes.

13 Q Who had access to that room where they were laid out on
14 butcher paper in those intervening -- those subsequent
15 days?

16 A Anyone that had access to the office with the proper
17 key card authorization would have access to that area.

18 Q And of course, that includes you as a supervisor,
19 correct?

20 A It does.

21 Q It also includes Michael Proctor?

22 A It does.

23 Q And those items were bagged on February 4; is that
24 right?

1 A I don't have a specific memory, but if you can show me
2 a document suggesting that or supporting that statement, I
3 will definitely look at it.

4 MR. JACKSON: Your Honor, may I inquire of the clerk
5 briefly?

6 (Mr. Jackson and Clerk McDermott confer.)

7 Q Sergeant, while we're looking for this piece of paper.
8 Do you remember looking at the bag that the clothing items
9 were in, at this point just the jeans?

10 A Earlier today, sir?

11 Q Yes.

12 A I do remember looking at the bag, yes.

13 Q Okay. And the bag has a label on it, obviously. It was
14 generated when the items were bagged.

15 A It has multiple labels, yes.

16 Q Okay. Did you see the label today that indicated it was
17 bagged on February 4?

18 A I didn't pay attention to it, no.

19 MR. JACKSON: May I approach, Your Honor?

20 THE COURT: Yes.

21 Q If you could take a look at those three pages, briefly.
22 That's a colloquy that may refresh your recollection.

23 A I don't know what the colloquy means. Can you --

24 Q A back-and-forth conversation.

25 A I see. (Witness complies.)

1 MR. JACKSON: May I approach?

2 THE COURT: Yes.

3 Q Thank you, sir. Did reviewing that document refresh
4 your recollection as to the date that those items were
5 ultimately bagged and labeled?

6 A Yes, based on the tag on the bag when I previously
7 looked at it, it appears that the tag was printed on
8 2/4/22.

9 Q And that would be consistent with the time that the
10 items are actually placed in the bag?

11 A I don't know that to be true.

12 Q Because you didn't place them in the bag, Trooper
13 Proctor did, correct? I'm sorry former Trooper Proctor
14 did.

15 A I don't who placed them in the bag.

16 Q But it wasn't you?

17 A It was not me, no.

18 Q But the case officer, Mr. Proctor, had access to that
19 room and was taking control over those clothing items for
20 those six days that they were drying on butcher paper,
21 correct?

22 A That's not necessarily correct. It could have been the
23 evidence officers bagging the evidence once it's dried and
24 processing it. I highly doubt Trooper Proctor had access
25 to the beast machine to print that tape -- label.

1 Q Right. I'm not asking if he printed the label. I'm
2 asking if he bagged the item and walked it up to the
3 evidence locker and the label was printed up there.

4 A Again, I don't know who bagged the items.

5 Q That would be normal protocol, correct?

6 A Somebody else bagging the items?

7 Q No. The case officer bagging the items. He's the one
8 that seized it along with you. He laid them out on the
9 butcher paper, along with you. He would be the one to
10 gather them up -- I mean the evidence officer is not going
11 to come down there and do that without the case officer,
12 correct?

13 A Not necessarily. The evidence officer's responsibility
14 is to handle the evidence. So I don't know who handled the
15 evidence that day.

16 Q How would the evidence officer know to go down there?
17 How would he know that there were clothing items being laid
18 out to dry on butcher paper unless the case officer told
19 him?

20 A They would walk by it every day and see it. That's
21 their workstation.

22 Q Right.

23 A So they would know that, hey, this evidence is drying.
24 There's only four detectives in the office at the time

1 working on this case. We communicate daily. So they would
2 know that, hey, it's dried. Let's bag it up.

3 Q Well that's a lot of speculation, especially for the
4 supervisor who literally who just I have no idea who bagged
5 that up. They weren't communicating with you, were they?

6 A I was giving you an explanation of what could have
7 happened.

8 Q Right. Speculation about what could've happened,
9 right?

10 A Well, he certainly did not bag that item.

11 Q Right. But your best estimate would be, knowing the
12 protocols at the MSP and in your unit, would be the case
13 officer who's controlling the items of evidence would have
14 bagged it and submitted it into the evidence locker?

15 A I do not know who bagged it.

16 Q Sir, for six days anybody who had access to that room
17 could have handled that clothing in any way they wanted to?

18 A That's correct.

19 Q And that includes former trooper Michael Proctor?

20 A That's correct.

21 Q Do you have any kind of log do document what was
22 happening or who was handling those items of clothing
23 during that six day period before it was bagged into
24 evidence? Any kind of a log?

1 A I don't have a document logging the clothing laying out
2 there. It was documented in reports in processing, I
3 believe.

4 Q Have you ever seen a log, I'm not talking about a
5 report after the fact, I'm talking about a log, a real-time
6 log indicating who may have come in and handled or touched
7 or manipulated those clothes in that six day period of
8 time?

9 A I have never seen a log like that, no.

10 Q The fact is we don't have a single document
11 establishing the chain of custody for those items between
12 January 29, and February 4. That's correct, isn't it?

13 A That is absolutely not correct.

14 Q Where is the log, the document logging what happened to
15 it?

16 A We seized the clothing. It was in our possession. It
17 was transferred for processing.

18 Q Sergeant, I'm asking you about a log, a written piece
19 of paper, something that looks like this. It's got writing
20 on it. It logs the item between from January 29, and
21 February 4. That doesn't exist, does it?

22 A We did not create a log to document the documentation,
23 so it would be redundant, really.

1 Q You indicated on direct examination that you personally
2 participate in two searches at 34 Fairview Road, one on
3 February 4, one on February 10; is that right?

4 A That is not right.

5 Q What did I get wrong?

6 A I was also there on the 3rd. Third, fourth and tenth.

7 Q What did you -- who did you go with on the 3rd?

8 A That was Trooper DiCicco, Michael Proctor and I
9 conducting the first excavation.

10 Q And about what time was that?

11 A It was during the early morning hours. I think earlier
12 I said it was somewhere between 8:30, 9:00, 9:30. It could
13 have been half an hour later. I'm not exactly positive on
14 the exact time we began the excavation.

15 Q And the other two searches were the next day February
16 4, and then February 10?

17 A The next time I was at Fairview Road and involved --
18 and involved in a collection of evidence was on the 4th,
19 when Canton PD documented the one piece, and I collected,
20 and then the 10th.

21 MR. JACKSON: May I have just a moment, Your Honor?

22 THE COURT: Okay.

23 Q Was anything recovered on February -- let's take them
24 in order, on February 3?

1 A Yes, Mr. O'Keefe's hat, a straw. I believe red and
2 clear plastic taillight pieces. There was -- those are the
3 items that were recovered amongst --

4 Q All right. Okay. What about the 4th?

5 A The 4th was the taillight -- red taillight piece, that
6 we displayed I believe, that Canton PD notified me of when
7 I was already on route there.

8 Q When you say Canton PD, who was it that notified you,
9 if you remember?

10 A There was at the scene there was Chief Berkowitz, a
11 couple of detectives.

12 Q Sergeant Lank, does that sound right?

13 A I do not know. I can't say yes or no. I don't recall
14 specifically. It was raining hard so I grabbed the item
15 and left.

16 Q Okay. Did you write a report -- I'm going to combine
17 these into all three days together. Did you write any
18 report -- actually won't do that. Let me ask them
19 individually. Did you write any report about your search
20 on the 3rd?

21 A Somebody authored a report. I'm not sure --

22 Q I'm asking about you?

23 A I can't. There's over 100 reports. I'd have to take a
24 look which report documents my activity that day.

1 Q Do you remember, as you sit here, authoring a report
2 about your conduct or your activity on February 4, the next
3 day?

4 A I don't have a memory of it, no.

5 Q Do you have a memory of authoring a report yourself
6 about your conduct on February 10, activity on February 10?

7 A I don't have a memory of it. It could have happened.
8 I just don't have a memory of it.

9 Q The reality, Sergeant, is that no report was written
10 about any of these searches until November 4, 2023,
11 correct?

12 A That could be possible, yes.

13 Q So literally the documentation of these three searches
14 about which you testified today, the documentation did not
15 exist until what is that math, 17, 18 months later?

16 A That is not true. Each bag that the evidence went into
17 was documented. The time, location, who recovered it,
18 where it was recovered and brief description of the items
19 that were recovered from the scene.

20 Q By the way, we're going to get that in a second the
21 evidence bags. A report is designed to memorialize exactly
22 what happens, when it happens, why it happened, who is
23 there, what time it happened, things of that nature,
24 correct?

1 A That is one of the purposes or some of the purposes
2 behind a report, absolutely, yes.

3 Q And the report in this case that documented these three
4 searches involving you, Trooper Proctor, and DiCicco,
5 Trooper DiCicco, even Canton PD officers, there was no
6 memorialization in a report until nearly eighteen months
7 later; is that right?

8 A It's possible, yeah. We write reports at different
9 times, yeah.

10 Q I want to ask you about this February 4, visit to the
11 crime scene.

12 You indicated that sometime in the morning 8:45, 9:00
13 a.m., something like that, you responded?

14 A On the 4th, sir?

15 Q On the 4th.

16 A I was driving to work so I would have to say 45 or so.
17 Yeah, I mean I don't have the exact time stamp, but, if you
18 know, if you have something to refresh my memory, I could
19 tell you if that's accurate.

20 Q I'm not going to hold you to the exact. It was in the
21 morning.

22 A It was. It was.

23 Q Did you know the chief of police Ken Berkowitz before
24 you responded on the 4th to 34 Fairview?

1 A Yes, I knew who we was. I had met him previously, and
2 he was present on the 29th when the vehicle was delivered
3 to the sally port.

4 Q He was actually in the sally port at least at some time
5 when the vehicle was delivered, correct?

6 A He was there at some point. I had a conversation with
7 him.

8 Q Okay. Tall guy, short guy?

9 A Chief Berkowitz was a shorter guy.

10 Q Do you know who Brian Higgins is?

11 A I do.

12 Q What's your relationship to Brian Higgins? Or what was
13 it, I should be more pointed to this, Sergeant, what was
14 your relationship back in 2022, January of 2022?

15 A Brian Higgins was a federal agent, and I crossed paths
16 with him on a couple of investigations. Strictly
17 professional relationship, a federal agent and a state
18 trooper.

19 Q So not a personal relationship, more of a professional
20 relation?

21 A Correct.

22 Q Did you know him to have a personal relationship with
23 Chief Berkowitz?

24 A I did not know.

1 Q Did Brian Higgins actually tell you and Michael Proctor
2 in an interview that he had a personal relationship with
3 Chief Berkowitz. He called him one of his better friends?

4 MR. BRENNAN: Objection.

5 THE COURT: Sustained. Ask it differently.

6 MR. JACKSON: Sure.

7 Q During the course of your investigation, did you learn,
8 although you may not have personal knowledge of it, did you
9 learn that Brian Higgins and Chief Berkowitz had some sort
10 of a personal relationship?

11 A If you show me a report stating that, I would like to
12 take a look. If it's written in a report authored by me or
13 that I authorized -- approved, I will take it for to be
14 fact.

15 Q As you sit here now, you don't have a memory of that
16 conversation with Brian Higgins?

17 A Do I have a memory of having causation with him and him
18 sharing that information with me?

19 Q That's it.

20 A I don't have a memory of him sharing that information,
21 but if you have a report that was authored by me or Michael
22 Proctor or any trooper in our office that says that, I will
23 take it as gospel and testify to it.

1 Q Okay. Well, I don't want to take up more time, but
2 we'll look for it. We'll put our hands on that, but in the
3 meantime, let me ask you a few other questions.

4 You were contacted and told to respond to 34 Fairview
5 Road because Chief Berkowitz had been driving by and saw
6 something while he was driving by, correct?

7 A On which day, sir?

8 Q February 4?

9 A I'm sorry?

10 Q February 4.

11 A Yes, he indicated that he was driving by and saw a
12 piece of potential evidence.

13 Q And he was driving by in a car at speed, correct?

14 A I would take that to be factual. I mean, if he's
15 driving by, I would take it to be in a car that speed.

16 Q And did you question Chief Berkowitz about -- by the
17 way, about how old was Chief Berkowitz when you met him out
18 at 34 Fairview in 2022?

19 A How old?

20 Q How old. Estimate. Was he in his 50s, 60s, 70s?

21 A I have no idea how old Chief Berkowitz was.

22 Q He indicated to you that he was driving by and saw a
23 small piece of red taillight from his car; is that right?

24 MR. BRENNAN: Objection.

25 THE COURT: Sustained.

1 Q He indicated to you that he was driving by and saw a
2 red something from his car, correct?

3 MR. BRENNAN: Objection.

4 THE COURT: Sustained.

5 Q Did you question Chief Berkowitz after you learned this
6 information about him driving by, did you question Chief
7 Berkowitz about how he could possibly see a piece of red
8 plastic from his car?

9 A No.

10 Q Did you question Chief Berkowitz about why he was
11 driving by 34 Fairview in the first place?

12 A No.

13 Q Did you question Chief Berkowitz about the fact that
14 his department had been conflicted from the case, at least
15 in part, because of, as you put it, a perceived or a
16 possible perception of a conflict of interest?

17 A I'm sorry. Repeat that question, please.

18 Q Did you question Chief Berkowitz about whether or not
19 he was aware that there was a conflict of interest between
20 Canton PD and this investigation?

21 A No, I didn't question, no.

22 Q Did you think that was important at the time to talk to
23 about that conflict of interest?

24 A No.

1 Q Because just days earlier, Sergeant, the Canton Police
2 Department had in fact recused itself from interviews
3 because of a potential conflict of interest, right?

4 A To prevent any perceived conflict of interest, they
5 recused themselves from being involved in interviews. I
6 wasn't pairing up with Chief Berkowitz to interview the
7 taillight piece. I mean, I don't --

8 Q No, I didn't figure that you were going to interview
9 the taillight piece. We all get the comment. I'm trying to
10 get to a point.

11 Three or four days after, five days after, six days
12 after, Canton PD recuses itself from the investigation, at
13 least parts of the investigation, because of a perceived
14 conflict of interest, the brother of the homeowner being a
15 detective, the chief of that department drives by in a car
16 and supposedly sees a piece of plastic?

17 MR. BRENNAN: I object to the question.

18 THE COURT: I'm sorry?

19 MR. BRENNAN: I object.

20 THE COURT: Sustained.

21 Q It was your understanding at least at the time that the
22 whole purpose of the recusal was so that there would not be
23 a perception of a conflict of interest to avoid that.

24 A I didn't give it much thought of the understanding why
25 there was a recusal. I was told that they're not going to

1 conduct interviews with us, and me being on the mission of
2 conducting this investigation, assisting with this
3 investigation, collecting evidence, I just knew I needed
4 more manpower, and the Canton police, being, you know,
5 having recused themselves, weren't going to be available to
6 provide that manpower to conduct interviews.

7 Q And yet, it was the chief of that very department that
8 was standing out in front of 34 Fairview when you pulled up
9 that morning?

10 A With his detectives, they were at the location. They
11 weren't standing outside. They were in their vehicles
12 because it was raining really heavily.

13 THE COURT: Can we end at this?

14 (Testimony ends at 3:54 p.m.)
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C E R T I F I C A T I O N

I, CHRISTINE D. BLANKENSHIP, NOTARY PUBLIC, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT
FROM THE RECORD OF THE COURT PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER.

I, CHRISTINE D. BLANKENSHIP, FURTHER CERTIFY THAT I NEITHER
AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES
TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT
I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF
THIS ACTION.

Christine D. Blankenship, May 24, 2025

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